

## **Attachment A**

### **Terms and Definitions**

The following terms and definitions are included as examples from other cities as noted:

1. **Host** means any Person who is the owner of record of residential real property, or any person who is a lessee of residential real property pursuant to a written agreement for the lease of such real property, who offers a dwelling unit, or portion thereof, for Transient Occupancy. (San Jose)
2. **Host Present** means the Host is present on the premises of the dwelling unit that is being used for Transient Occupancy between the hours of 10:00 p.m. and 6:00 a.m. (San Jose)
3. **Hosting Platform:**
  - a. Hosting Platform is a person that provides a means through which a host may offer a dwelling unit, or portion thereof, for Transient Occupancy. This service is usually, though not necessarily, provided through an internet-based platform and generally allows an owner or tenant to advertise the dwelling unit through a website provided by the Hosting Platform and provides a means for potential Transient Users to arrange Transient Occupancy and payment therefor, whether the Transient User pays rent directly to the Host or to the Hosting Platform. (San Jose)
  - b. Hosting Platform is a person or entity that provides a means through which an Owner may offer a Residential Unit for Transient Use. This service is usually, though not necessarily, provided through an online platform and generally allows an Owner to advertise the Residential Unit through a website provided by the Hosting Platform and provides a means for potential tourist or transient users to arrange Tourist or Transient Use and payment, whether the tourist or transient pays rent directly to the Owner or to the Hosting Platform. (San Francisco)
4. **Operator:**
  - a. An operator is a resident or a person or entity that is designated by the resident to manage the short-term rental. (Portland)
  - b. An operator means the person who is proprietor of the hotel, whether in the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this Chapter 3.24 of the Malibu Municipal Code (Chapter) and shall have the same duties and liabilities as his principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall, however, be considered to be compliance by both. (Malibu)

5. **Permanent Resident** is a person who occupies a Residential Unit for at least 60 consecutive days with intent to establish that unit as his or her primary residence. A Permanent Resident may be an owner or a lessee. (San Francisco)
6. **Short-term rental** includes all or any portion of residential buildings that are designed or used for occupancy for a period of less than 30 consecutive calendar days, counting portions of calendar days as full days. (DCP)
7. **Transient** means any person who exercises occupancy or is entitled to occupancy for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person shall be deemed to be a transient until the period of thirty (30) days has expired. In the event that any person rents or leases a hotel room(s) for more than thirty (30) consecutive calendar days, the determination of transiency for the purpose of applying this Chapter shall be based on the time period of actual occupancy of the room by a natural person or persons and not the duration of the room(s) reservation, lease or rental agreement. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this Chapter may be considered. (Malibu)
8. **Transient Use** is any use of Residential Unit for occupancy for less than a 30-day term of tenancy, or occupancy for less than 30 days of a Residential Unit leased or owned by a Business Entity, whether on a short-term or long-term basis. (San Francisco)
9. **Transient User** means a Person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full calendar days. (San Jose)

## **Attachment B**

### **Cities with Short-Term Rental Experience**

The City Administrative Officer (CAO) interviewed representatives from eight cities around the country that have developed Ordinances and regulations for the short-term rental (STR) industry. This attachment describes the process for each city and includes the related Ordinances and supporting documentation where applicable.

### Summary of Cities with Short-Term Rental Experience

	Public Process	Agencies Involved In Process	Final Decision	What is allowed/not allowed	Economic Benefits	Enforcing Agency
<b>Austin</b>	STR Working Group held several public hearings, then Planning Commission held more	Planning Commission, Committee on Code and Ordinances	Annual Permit	No limit on any host-occupied dwellings. Limit on number of multi-family and non-host-occupied dwellings	TOT collected by the host	Code Department
<b>Chicago</b>	Public hearings held by Licensing Committee	Council Office, Law Department	Biannual Permit	Permitted dwellings that are non-host-occupied Host-occupied dwellings considered a bed and breakfast	TOT collected by Airbnb	Department of Business Affairs and Consumer Protection
<b>Malibu</b>	Sent subpoenas to all companies who had STRs listed and had not registered with the City and were not collecting and paying TOT	City Attorney, Code Enforcement	Enforce current code requiring registration of all STRs	Short-term rentals can continue but operators must register with City	TOT collected by Airbnb	Code Enforcement, City Attorney
<b>NYC</b>	Held public hearing to gather information on industry	Committee on Housing and Buildings, Office of Special Enforcement	In Progress	In Progress Currently only short term rentals are allowed in single-family homes or if host is present during the transient occupancy	In Progress	Office of Special Enforcement
<b>Portland</b>	Several public hearings led by Planning and Sustainability Commission	Bureau of Planning and Sustainability, Planning and Sustainability Commission	Biannual Permit	STRs allowed in both single-family and multi-family dwellings Host must live at dwelling 270 days a year	TOT collected by Airbnb	Bureau of Development Services, Fire Bureau
<b>San Fran</b>	Planning Commission held public hearings, then provided recommendations to Board of Supervisors	Planning Commission, Board of Supervisors	Biannual Permit	No limit on days if host-occupied 90 day limit if non-host-occupied	TOT collected by Airbnb	Planning Department
<b>San Jose</b>	Public hearings led by Economic Development Committee	Planning, Building, and Code Enforcement (PBCE), Office of Economic Development, City Attorney	No Permit Consider STRs as an incidental Use to a legal primary residential use	180 day limit per year if non-host-occupied No limit on days if host is present	TOT collected by Airbnb	Planning, Building, and Code Enforcement
<b>WeHo</b>	STR Task Force 7 meetings with public comment Task Force recommended to Council that STRs be prohibited	STR Task Force, City Council	City Council prohibited STRs.	Short term rentals prohibited	N/A	Code Enforcement Division

## AUSTIN, TEXAS

The process of regulating short-term rentals (STRs) in the City of Austin began when a City audit uncovered approximately 1,500 dwellings that were functioning as STRs but not paying the City's hotel occupancy tax. The hotel industry requested that the City create a level playing field and require residential STRs to collect and remit the hotel occupancy tax on behalf of the City. Like many cities in this report, the City viewed the issue of STRs as a land use matter and directed the Planning Commission to determine how best to regulate the STR industry. The Planning Commission's Committee on Codes and Ordinances (Committee) worked with stakeholders to draft a proposal to regulate STRs through amendments to the City Code. In January 2011, the first public hearing involving STRs was held and a Short Term Rental Working Group (Working Group) was created to research the topic of STRs and return to the Committee with recommendations. The Working Group was made up of representatives from local interest groups as well as several members from the Planning Commission.

The Working Group held several meetings between May and July 2011. Subsequently, the Working Group drafted recommendations to be submitted to the Committee on Codes and Ordinances in October 2011. The five major points outlined in the recommendations consisted of:

- Definition of STRs (for single family homes only);
- Guidelines for registering a property operating as an STR;
- Requirements for the STR dwelling;
- Requirements for homesteaded STRs; and,
- Requirements for commercial STRs.

The Committee adopted these recommendations and forwarded them to the Planning Commission. The recommendations from the Working Group are included in this report as Austin Attachment 1.

Using the Working Group's recommendations, the Planning Commission drafted two new land use categories for the City Code: a Type 1 STR and a Type 2 STR. Type 1 is a host-occupied rental in a single-family dwelling while a Type 2 STR is a non-host-occupied rental in a single-family dwelling. The Planning Commission included a provision that the total number of Type 2 Rental Permits issued can be no more than three percent of the total number of units within a given census tract.

The City Council conducted public hearings on the Planning Commission's recommendations and subsequently adopted Ordinance No. 20120802-122 (Type 1 and 2 Ordinance), effective October 1, 2012. Please see Austin Attachment 2 for the Type 1 and 2 Ordinance. To enforce the Type 1 and 2 Ordinance, the Short-Term Rental Licensing Program (STRLP) was created within the Code Department. Shortly after the Type 1 and 2 Ordinance was adopted, both City staff and the public felt the City should also consider adding multi-family dwellings to the STRLP. This support led to Council adopting Ordinance No. 20130926-144 (All-Encompassing Ordinance) in

September 2013. The All-Encompassing Ordinance, effective January 1, 2014, listed host-occupied multi-family dwelling units as Type 1 Rental and non-host-occupied multi-family dwelling units as a Type 3 Rental. The All-Encompassing Ordinance also allows for the rental of individual sleeping rooms as long as the host is present. Please see the Austin All-Encompassing Ordinance in Austin Attachment 3.

To apply for an STR License an applicant must:

- Pay the \$285 in application fees;
- Provide proof of property insurance;
- Provide proof of payment of Hotel Occupancy Tax (if applicable); and,
- Obtain either a Certificate of Occupancy or a Certified Third-Party Inspection for the dwelling.

The Code Department operates and enforces the STRLP and handles completed applications; however, certain application requirements must be obtained through other departments. The Office of the City Controller oversees the collection of Hotel Occupancy Tax information, forms and proof of payment. The Building Inspections Division provides a Certificate of Occupancy (CO) or a third-party inspector may conduct a life-safety inspection in-lieu of a CO. Austin Attachment 4 contains full details about the STRLP.

The City found that the single-family non-host occupied STR, known as a Type 2 STR, is the most controversial part of the STRLP because those homes are thought of essentially as licensed full-time hotels. In January 2014, the City notified all identified non-compliant STR operators to come into compliance with the All-Encompassing Ordinance and to register with the Code Department. Since its enforcement effort started, the Code Department has begun investigations into almost 1,100 dwellings and has successfully brought 72 percent of those into compliance with the All-Encompassing Ordinance. The City also found that in the first year of the STRLP, that an additional \$2 million in Hotel Occupancy Tax and licensing fees was collected from STRs.

## **CHICAGO, ILLINOIS**

The housing collapse following the recession in 2008 left the City of Chicago with a large amount of vacant housing, many in multi-family dwelling units. With little possibility of selling or renting a large portion of their housing stock, building owners began to operate these dwellings as short-term rentals (STRs). While this activity was initially focused in the downtown area, STRs expanded into the suburbs and throughout the City. The hotel industry wanted STRs to play on a level playing field since the STRs were operating as hotels, which meant STRs should also have to pay the Hotel Occupancy Tax.

Alderman Brendan Reilly, whose 42nd Ward is downtown where STR issues began, introduced a Motion to City Council in 2009 to explore the STR industry. Alderman Reilly's office worked with the City's Law Department to research the STR industry and to draft an Ordinance to be submitted to the City Council. See Chicago Attachment 1 for the Ordinance.

The Ordinance, which became effective January 1, 2011, defines a vacation rental as a dwelling unit with up to six sleeping rooms that are available for rent for transient occupancy by guests. However, this definition only applies to dwellings that are not host-occupied during the transient occupancy. If the host is present during the transient occupancy, then the dwelling is not a vacation rental and falls under the category of a bed and breakfast establishment.

The Ordinance requires vacation rentals to obtain a license at a cost of \$500 which must be renewed every two years. The Department of Business Affairs and Consumer Protection handles the majority of the vacation rental licensing program including processing applications, issuing the licenses and enforcement. The Department of Buildings is tasked with inspections of dwellings, which is a requirement an operator must undergo before submitting the STR application. Chicago Attachment 2 contains a summary sheet that outlines the zoning requirements for applicant dwellings, documentation required at the time the application is submitted and standards of operation for the dwelling. Fines for operating unlicensed vacation rentals range from \$1,500 to \$3,000 for each offense.

As of February 2015, there were approximately 2,800 STRs registered on Airbnb compared to about 150 licenses issued. The City views that as a problem since there are many hosting platforms in addition to Airbnb which list dwellings for rent in Chicago. Therefore, more licenses should have been issued. According to staff, the low number of licenses is most likely due to the fact that hosts and hosting platforms are not compelled to comply with regulations. Rather, enforcement by the Department of Business Affairs and Consumer Protection is reactive and complaint-driven.

Beginning in February 15, 2015, the City and Airbnb entered into an agreement to collect and remit the hotel occupancy tax back to the City.

## **MALIBU, CALIFORNIA**

Chapter 3.24 of the Malibu Municipal Code (MMC) authorizes Malibu to collect Transient Occupancy Tax (TOT) when a hotel, motel or residential home is occupied for 30 consecutive calendar days or less. The MMC also requires hotels, motels and residential homes to register with the City to receive a transient occupancy registration certificate and to report and remit TOT on a quarterly basis. However, prior to 2009, the City only collected TOT from hotels and motels but not from short-term rentals (STRs) of residential homes. Until that time, residential home TOT collection had gone largely unenforced. As the STR industry grew in popularity and use, the City of Malibu sought to begin enforcing the registration requirement to provide a level playing field among hotels, motels and STRs.

City staff tried to identify STR properties but found that they needed additional information such as the addresses of the STRs to enforce the MMC fairly and uniformly. Staff estimated there were between 100 and 300 unregistered STRs within the City which were not remitting TOT.

Since operating an unregistered STR is against the MMC, staff recommended that the Mayor issue subpoenas to all companies who had STR listings in Malibu to acquire the information needed to bring the operators into compliance with the MMC. The hosting platforms listing Malibu properties ranged from the popular Airbnb and VRBO to lesser-known platforms such as RentBits and AdventurePads. Staff also recommended issuing subpoenas to operators who were suspected of not remitting TOT to the City. Malibu Attachment 1 lists the recommendations from City staff.

In August 2014, the City issued legislative subpoenas to five hosting platforms, including Airbnb, with properties listed in Malibu to bring them into compliance and to ensure the collection of TOT is remitted back to the City. However, City officials reported an obstacle regarding this process. Although the subpoenaed websites had properties listed within the City, not all of the companies had an office in Los Angeles County. Therefore, it was difficult for the City to enforce all of the legislative subpoenas or even to receive responses from the companies.

Since then, the City and Airbnb have been working cooperatively together and the City announced in April 2015 that Airbnb would begin collecting TOT for Malibu properties and remitting the funds to the City. The Malibu Assistant City Manager projects the City will collect approximately \$450,000 in TOT in 2015.



## **NEW YORK CITY, NEW YORK**

New York City (NYC) elected officials first responded to the growth of the short-term rental (STR) industry in 2005 by creating an “Illegal Hotel Task Force” composed of dozens of City and State elected officials, city agencies, housing advocates and neighborhood organizations. Following years of discussions and community forums, the task force determined that two legislative changes were necessary to empower city agencies to conduct effective enforcement.

- There were conflicting definitions of the term “permanent residence” in various City and State laws, and there was a lack of clarity surrounding the number of units that had to be rented out on a transient basis in a building for a violation to exist.
- The maximum fine that can assessed for illegal hotel violations is \$800 regardless of the time and number of units being rented illegally, an amount so low that it is easily written off as a cost of doing business and so is not a deterrent to illegal activity.

The task force worked closely with City agencies and the NYC Mayor’s Office to develop City and State legislation to address each of these issues.

In 2010, the State Legislature amended the Multiple Dwelling Law (MDL) by defining the term “permanent resident purposes” as occupancy for 30 consecutive days or longer, and clarifying that renting out even a single unit in a Class A multi-family building for less than 30 days was illegal. The 2010 law contained a few exemptions, excluding from its prohibitions: (1) occupancy by house guests or lawful boarders, roomers, or lodgers, so long as the permanent resident is present; (2) house-sitting without compensation; and (3) college and university-owned dwellings that use no more than five percent of the building units to temporarily house non-students, such as professors and academic guests, provided that no money is paid to the college or university. While the 2010 law does not prohibit residents from renting out rooms in their apartments if they are present, this activity violates many residential leases. Since the MDL only regulates buildings with three or more units, the 2010 law does not apply to one and two-family homes.

Following the enactment of the State law, NYC passed local legislation, Local Law 45 of 2012, to classify STR violations as “immediately hazardous” and increase the fines the City can impose for repeat offenders from \$800 to \$25,000. Enforcement of the STR laws in NYC is led by the Mayor’s Office of Special Enforcement (OSE), a multi-agency task force created in 2006 to address serious quality of life and safety issues including illegal conversions of apartments into hotels, trademark counterfeiting, massage parlors that are fronts for prostitution and human trafficking, and lawless clubs. The OSE has a small legal staff and enforcement staff from the NYC Police, Fire, Buildings, and Finance Departments who conduct joint inspections. The OSE’s work is primarily

complaint-based and conducts field inspections of locations, issues violations and files affirmative litigation against the worst offenders.

In October 2014, the Research Department and Internet Bureau in the Office of the Attorney General of the State of New York (Attorney General) released a report detailing its observations of the impacts STRs were having on NYC. See New York City Attachment 1 for a copy of the report. The report cited data from a four-and-a-half-year reviewing period between January 1, 2010 and June 2, 2014. The report also contains information obtained from Airbnb as the result of a subpoena issued by the Attorney General.

The key points cited in the report include:

- The explosive growth of the STR industry in NYC. Private STR bookings increased tenfold during the review period.
- Violations of local laws. During the review period, 72 percent of STRs in NYC violated at least one law, including the MDL and the NYC Administrative Code.
- The substantial number of “Commercial Hosts” who advertise and rent several units at the same time. Commercial hosts, defined as those who list and operate more than two units at the same time, made up only six percent of all hosts but accounted for 36 percent of all bookings. More than 100 hosts had ten or more unique units in NYC listed on Airbnb. In addition, the top NYC host had 272 unique listings on Airbnb, generating \$6.8 million in revenue during the review period.
- The displacement of long-term housing residents in thousands of apartments due to private STRs. In 2013, nearly 2,000 units were booked as STRs for a cumulative total of six months or more, meaning the units were largely unavailable to long-term residents.
- Numerous STR units serving as illegal hostels. In 2013, approximately 200 units were booked for more than 365 nights. This statistic means that the dwelling had multiple people staying in rooms the same nights, functioning like an illegal hostel.
- The rapid transformation of neighborhoods, primarily Manhattan, which consists of almost all multi-family dwelling units. Just three districts in the borough of Manhattan—the Lower East Side/Chinatown, Chelsea/Hell’s Kitchen, and Greenwich Village/SoHo—accounted for 40 percent of all NYC’s bookings through Airbnb. In comparison, three other boroughs—Queens, Staten Island and the Bronx—accounted for a total of three percent of NYC’s Airbnb bookings.

In January 2015, the New York City Council’s Housing and Buildings Committee held a public hearing to discuss the Attorney General’s report and invited stakeholders and

neighborhood councils as well as a representative from Airbnb to speak on the topic. The purpose of the hearing was to gather additional information about the impacts that STR industry and home-sharing sites have on NYC and to explore ways to mitigate such impacts caused by these uses. At the hearing, several Councilmembers expressed their concern about enforcement of STRs under the current laws at their disposal. Councilmembers requested that Airbnb submit names and addresses of current hosts who used Airbnb within NYC limits, but the company declined to do so.

Since the January 2015 hearing, the Housing and Buildings Committee has been working with the OSE about how best to enforce the current laws against STRs as well as how potential future amendments might be enforced. The OSE is currently enforcing the current laws reactively through the City's 3-1-1 system. The Council maintains that OSE's current budget is insufficient and is working to increase the task force's budget to \$2 million in 2016.

## **PORTLAND, OREGON**

In 2013, the City of Portland restarted the Regulatory Improvement Code Amendment Package (RICAP) program that had been suspended since 2010. The program enlists the input of City staff, community members and stakeholders by asking them to submit potential regulations or amendments to current regulations through an online database. The Bureau of Planning Sustainability (BPS) then ranks the proposals by their ability to improve the City, the variety of stakeholders affected, and the geographic range of the issue. One of the proposed regulations that received the most public attention involved short-term rentals (STRs).

As part of the RICAP process, the BPS met stakeholders to discuss how STRs have or would impact them. They subsequently developed a proposal and held a seven-week public comment period.

The BPS prepared a draft ordinance based on their research and public input and forwarded it to the Planning and Sustainability Commission and later the City Council where the public had additional opportunities to review the proposal and provide testimony. As a result of the public input process, the Portland City Council adopted Ordinance No. 186736 (Single-Family Dwelling Ordinance) in July 2014 which addressed STR regulations in single-family dwellings (houses attached houses, duplexes, and manufactured homes). Portland Attachment 1 includes the Single-Family Dwelling Ordinance.

The Single-Family Dwelling Ordinance permitted residents to rent one to two bedrooms in single-family dwellings, duplexes or accessory dwelling units but did not include multi-family dwellings. In October 2014, the Mayor of Portland recommended that the City Council consider permitting multi-family dwellings to be STRs as well. The Mayor formed a working group to study multi-family dwelling STRs.

As a result of the Mayor's request and additional Council hearings, Ordinance No. 186976 (All-Encompassing Ordinance), which was adopted in January 2015, added multi-family dwelling units as STRs. See Portland Attachment 2 for the All-Encompassing Ordinance. The All-Encompassing Ordinance allows residents of multi-family dwelling units to apply for an STR permit with many of the same requirements that single-family dwelling units follow. The All-Encompassing Ordinance limited STRs permits for multi-family dwelling units to no more than 25 percent of the units in a multi-family dwelling building.

The All-Encompassing Ordinance splits STRs into two categories, Type A and Type B. Each Type requires a permit from the City. When a one-to-two-bedroom dwelling is being rented, it is considered a Type A STR and a Type A permit is required. When a three-to-five-bedroom dwelling is being rented, it is considered a Type B rental and a Conditional Use Permit is required. Portland Attachments 3 and 4 contain the Type A and Type B permit regulations and STR requirements.

The Bureau of Development Services (BDS) was placed in charge of enforcing the All-Encompassing Ordinance. For single-family dwellings, the BDS will inspect the dwelling during the initial application process and every six years thereafter or when there is a change in ownership. During the inspection, the BDS will verify that each bedroom to be rented to overnight guests has met building code requirements for a sleeping room at the time it was created or converted and is equipped with functioning carbon monoxide and smoke detectors. For multi-family dwelling units, the Fire Bureau conducts the inspection every two years during their regular multi-family dwelling buildings inspection.

Renewal applications, required every two years, are subject to self-certification requirements by the host. The host has to confirm certain "Responsibility Statements" on the application such as the number of bedrooms he or she intends to rent and that the host occupies the dwelling unit where he or she offers STRs for at least 270 days during each calendar year. Another component of the application requires notification of the resident's neighbors and property managers of the use of a dwelling unit as an STR property.

In July 2014, Airbnb began collecting the 11.5 percent Transient Lodging Tax on reservations made through the Airbnb platform and remitting the money to the City. As of March 2015, the City had processed about 100 STR applications with another 75 applications pending. The City estimates this number of STR applications only accounts for about five percent of all STR activity in Portland.

## **SAN FRANCISCO, CALIFORNIA**

Before any Ordinances were passed in San Francisco, terms like “Hosting Platform” and “Short-term Rental” (STR) were not defined in the City and County’s Administrative and Planning Codes. The Administrative Code prohibited residential units in buildings with four or more units from being rented for less than 30 days. The Planning Code, which also prohibited renting out residential units for less than 30 days, required a Conditional Use authorization to convert a residential unit into a hotel use.

A proposed Ordinance by Supervisor David Chiu, providing an exception to allow STRs, was introduced to the Board of Supervisors in July 2014. The Ordinance recommended the following changes:

- Amend the Administrative Code to provide an exception for permanent residents to the prohibition of STRs under certain conditions;
- Create procedures, such as a STR registry to track short-term residential rentals and compliance with applicable regulations; and,
- Amend the Planning Code to state that a dwelling’s zoning designation does not change from residential to commercial while operating as a STR.

Hotels were not permitted in a variety of residential zones without Conditional Use authorization, but STRs were still operating throughout San Francisco; therefore the San Francisco Board of Supervisors sought to update the City and County’s Codes to include STRs and rules regarding them in the Code. The Department of Building Inspection was originally responsible for enforcing the prohibition of short-term rentals, but the Planning Department recommended themselves to be put in charge of administering the STR program. The Board of Supervisors tasked the Planning Commission (Commission) with researching the state of the STR industry in San Francisco, conducting public hearings to gain public insight on the topic, and providing policy recommendations to the Board of Supervisors.

The Commission held a public hearing on August 7, 2014 and heard testimony presented by City and County staff, community members and home sharers. Following the six-hour hearing, the Commission decided that STRs should be allowed in San Francisco, but they needed to be regulated to preserve San Francisco’s housing stock, reduce impacts on affordable housing, and protect the livability of residential neighborhoods. The Commission also agreed that the Planning Department should be the City agency responsible for monitoring and enforcing STR regulations and permitting. In October 2014, the Board of Supervisors adopted Ordinance No. 218-14 (Ordinance) which amended the Codes. San Francisco Attachment 1 contains the Ordinance and details regarding the amendments.

The Ordinance created an STR registry and permitting process administered by the Planning Department to regulate STRs within San Francisco. Each permit has a fee of

\$50 and the applicant must renew the permit every two years. In addition to the permit, the applicant must acquire a Business Registration Certificate issued by the San Francisco Treasurer and Tax Collector's Office. The Ordinance also requires the host of the STR dwelling to live at the dwelling for at least 275 days per calendar year which is anticipated to deter dwelling and building owners from converting their dwellings into full-time transient properties. If the host is present during the rental process, there is no limit on the amount of days a dwelling may be rented; however, there is a maximum rental time of 90 days per calendar year for dwellings when the host is not present during the rental process. See San Francisco Attachment 2 for the requirements for an applicant to be considered for a permit.

Since the Ordinance went into effect on February 1, 2015, the Planning Department has received approximately 455 applications for STR permits and approved 170 of those applications. In March 2015, during a Budget and Finance Committee hearing, the San Francisco Planning Department reiterated that the existing regulations are unenforceable, primarily because they rely on hosts self-reporting and registering themselves with the City and very few hosts have done that. Additionally, hosting platforms are not required to give the City the names and addresses of hosts renting through their website, so the City does not have the contact information it needs to request notify host to register their units.

San Francisco and Airbnb entered into an agreement for Airbnb to collect and remit San Francisco's 14 percent transient occupancy tax back to the City and County starting October 1, 2014.

In April 2015, the Mayor and several Supervisors proposed separate amendments to the STR Ordinance to simplify and improve compliance and enforcement. The amendments to the Administrative and Planning Codes include setting the same limit on the number of rental days per calendar year for both host-present and non-host-present STRs, requiring hosting platforms to report quarterly to the Planning Department the number of nights STRs around San Francisco have been rented, and setting up an STR Office whose staff would be assigned from the Planning Department, Department of Building Inspection, and the Tax Collector's Office.

## **SAN JOSE, CALIFORNIA**

In a March 2014 budget memo, the Mayor of San Jose suggested that the City “should explore applying the Transit Occupancy Tax (TOT) to non-hotel lessors utilizing internet-transacted vacation rentals” to generate revenue and create a level playing field between hotels and non-hotels lessors. Subsequently, City staff from the Office of Economic Development, the Department of Planning, Building and Code Enforcement (PBCE), and the City Attorney’s Office began to collaborate on a proposed Ordinance to legalize short-term rentals (STRs). The proposed Ordinance would set performance standards for STRs and allowed transient occupancy as a permitted use for the purpose of generating TOT revenue for the City.

The City determined through research that the number of STRs in the City were relatively small in scale and scattered in comparison to other cities such as San Francisco and New York. For this reason, allocating City resources to create and maintain a registry was deemed not to be warranted.

Consequently, the Mayor and Council chose an approach that would keep the ordinance simple and the enforcement low-cost for City staff and hosts. The provisions of the Ordinance would allow transient occupancy for up to 180 days per calendar year without a host present and no maximum with a host present (i.e. a primary resident present). To preserve permanent housing in the City, the Ordinance requires the host of a unit to be “a Person who occupies the unit that is being used for Incidental Transient Occupancy for at least sixty (60) consecutive days, with the intent to establish that dwelling as the Host’s Primary Residence.”

According to the City’s Public Outreach Policy, if there is an adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City, e-mails must be sent to interested groups and individuals and information posts on a website to notify the public and encourage public participation. Planning staff held a public hearing in October 2014 which was attended by approximately 50 people including residents, affordable housing representatives, hospitality industry representatives, and a representative from Airbnb. The objective of the public hearing was to generate input from the public and from various stakeholders regarding the impact of the STR industry.

In December 2014, the City Council adopted Ordinance No. 29523 (Ordinance), which is enforced by the PBCE. Unlike most cities in this report, the Ordinance for San Jose does not create a new program or permit for STRs. They, instead, consider it Incidental Use to a legal primary residential use. The Ordinance establishes Performance Criteria to decide whether a rental falls under either STR or Bed and Breakfast rules. Criteria listed in the Ordinance includes a 180-day maximum for non-host-occupied STRs and no maximum for host-occupied STRs, the maximum number of guests a STR may have at a time, and several other criteria. It also establishes definitions and rules for STRs.



In the adopted ordinance, the City Council directed that staff monitor impacts for a period of 18 months following adoption and then report back to Council with any recommendations for changes, particularly if negative impacts outweigh public benefits. Please see San Jose Attachment 1 for the adopted Ordinance.

Shortly following the adoption of the Ordinance, the City of San Jose and Airbnb entered into a TOT collection agreement.

## **WEST HOLLYWOOD, CALIFORNIA**

In a February 2014 meeting, the West Hollywood City Council directed City staff to form a Shared Economy Task Force (Task Force) to study the both the shared-ride and short-term rental (STR) industries and how they are currently impacting the City of West Hollywood. The Council recommended commissions and groups that could be interested in participating in the Task Force and directed those groups to select a representative to participate. After selections were made, the Task Force was comprised of one representative each from the Transportation Commission, Planning Commission, Business License Commission, the Chamber of Commerce, and Visit West Hollywood. City staff was part of the Working Group for the purpose of notifying the public of meetings, facilitating meetings, and arranging for industry and neighborhood representatives to speak at meetings.

Between July 2014 and January 2015, the Task Force met seven times. Each meeting included an opportunity for comments from the public, City staff, and subject matter experts. STR experts consisted of representatives from Airbnb and the Los Angeles Short Term Rental Alliance (LASTRA), a local neighborhood alliance that encourages the sharing of information between STR hosts and advocates for responsible STR procedures and practices. The City published agendas for each meeting online along with press releases and draft policy recommendations at various milestones. The meeting times and locations were shared through a variety of both social and traditional media channels.

While the Task Force determined that regulation of STRs is within the City's authority since it is a land use issue, the current Municipal Code did not specifically define short-term rentals. The Zoning Ordinance however does define a hotel as "a facility with guest rooms or suites, provided with or without meals or kitchen facilities, rented to the general public for overnight or other temporary lodging, typically less than 30 days." Hotels are not permitted within West Hollywood's residential zoning districts. Consequently, STRs are not allowed in West Hollywood residential neighborhoods.

The Task Force researched cities which had already passed STR regulations. The Task Force members and interested stakeholders discussed possible solutions, such as limiting the number of rental days or restricting the use to certain types of housing. However, the possible negative impacts on quality of life for neighboring tenants and preservation of affordable housing, among other factors, raised concerns for the members of the Task Force.

The Task Force ultimately decided to recommend that the Council continue with the existing prohibition of STRs in the City mainly due to the concerns regarding quality of life impacts for neighboring residents and the challenge of successful compliance with STR permitting or registration processes in other communities. In February 2015, the Council voted to adopt the Task Force's recommendations to continue with the prohibition of STRs in the City and add the definition of a STR to the Zoning Ordinance. See West Hollywood Attachment 1 for the complete recommendations from the Task

Force to the City Council. The City is now in the process of amending its Municipal Code, Title 19 Zoning Ordinance to include the specific language regarding the prohibition of STRs.

Austin, TX

Attachment 1

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Planning Commission/Codes & Ordinances Sub-Committee  
Short Term Rentals Workgroup – Sponsors' Recommendations

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## **A. Definition**

Short Term Rental (STR) is a new Single Family Residential Use of a single family residential structure for a period of time between one and 30 consecutive days. An STR property is inclusive of all permanent structures on a Single Family lot; i.e. a primary house and secondary apartment, or duplexes. STR does not preclude the short term extension of the rental agreement of a previously established long-term tenant. Residential use is the occupancy of living accommodations.

The short term rental of a homesteaded residence is an allowed use in any Single Family (SF) residential use zoning category. Commercial STR is a conditional use in any SF residential use zoning category.

The separate short term rental of individual rooms within a residential structure is prohibited in SF zoning with the exception of Bed and Breakfast use. The rental of STR residential property as a site for gatherings is prohibited.

Note that the STR use is addressed here only in the context of single family residential zoning and does not apply to multi-family, mixed-use or other zoning categories.

## **B. Registration**

The City of Austin (COA) requires Registration of all Short Term Rental (STR) properties. The Registration Application requires the following information:

- the identity of the property owner or site manager
- a Tax ID number
- proof of property insurance
- a Certificate of Occupancy
- a designated Local Responsible Contact (LRC)
- a local emergency contact phone number, and
- the STR address.

The COA will provide each applicant a packet of requirements and guidelines to:

- facilitate rentals compatible with SF zoning residential uses, and
- minimize conflict with adjacent properties.

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**Short Term Rentals Workgroup – Sponsors' Recommendations**

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### **C. General Requirements**

The following requirements pertain to all STRs regardless of type:

- All property owners of STRs must pay appropriate Hotel Occupancy Taxes.
- All STRs are subject to COA Dwelling Unit Occupancy Limits (LDC 25-2-511).
- During rental periods, the Local Responsible Contact must provide Emergency Contact Information by either posting it on the property or distributing it to adjacent residences within 100 feet of the property.
- The property owner is liable for damages resulting from renters' actions.

The Local Responsible Contact must attach a packet of requirements and guidelines to STR rental agreements (provided by COA at registration) and provide such packet to renters. The packet must include applicable excerpts from City Ordinances or comparable information. Renters must comply with all requirements and guidelines regarding:

- Occupancy Limits
- Noise Restrictions applicable to SF zoning including exclusion of outdoor amplified sound
- Parking Restrictions
- Prohibition of Gatherings
- Trash Collection Schedule
- Current COA restrictions, ex: a burn ban, watering restrictions.

### **D. Requirements for Homesteaded STRs**

#### **Two Tiered Permit Process for Homesteaded Homes**

1. Limited Rental: Annual Permit and Fee Required — \$25 Fee covers up to 15 total days per year occasional rentals
2. Periodic Rental: Annual Permit and Fee Required — \$50 Fee covers periodic or frequent STRs that exceed 15 days per year up to a maximum of 90 days.

If a primary residence is homesteaded and a secondary unit is rented out on a short term basis the homesteaded STR regulations apply. Likewise if a duplex is homesteaded and the other duplex half is rented out on a short term basis the homesteaded STR regulations apply. Homesteaded STRs allows owners to accommodate visitors who attend local festivals and events such as ACL, SXSW, and F1.

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**Planning Commission/Codes & Ordinances Sub-Committee  
Short Term Rentals Workgroup – Sponsors' Recommendations**

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**E. Requirements for Commercial STRs**

**Non-Owner Occupied and Investment Rentals**

1. Commercial STR requires a conditional use permit approved through the public process with the Neighborhood Planning and Development Review Department, Land Use Commission, and City Council
2. Repeat STR Commercial: Annual License and Fee Required — \$250 Fee Per Site
3. Multiple STRs per Owner/Property Manager: Annual License and Fee Required — \$250 Fee per site.

Any property that is rented for less than 30 days that is not homestead-exempted is a Commercial STR. Commercial STR properties must be dispersed at least 1000 feet apart from other STR properties and Bed and Breakfasts rentals. A Commercial STR license is granted to the owner and does not convey with the property.

In order to qualify existing STRs for grandfathered property exemptions, owners must provide documentation of:

- Hotel Occupancy Tax (HOT) filings for each of the four quarters previous to adoption of the ordinance
- On-time HOT payments according to state due dates for three of those four quarters.

**Licensing Requirements:**

- An initial safety inspection and one periodic inspection per subsequent three year cycle to ensure that the property meets COA/PACE code safety standards and requirements.
- Adequate on-site parking. COA single-family parking regulations apply to front yard parking unless it is specifically allowed in the neighborhood plan.
- After the issuance of a license, if three or more citations per site are issued within a year the license will be revoked with a wait period of one year before reapplication.
- The Owner/Property Manager may not have outstanding code enforcement or APD citations for violations within the past two years. Tenant citations issued against violations of code also apply if they pertain to the STR property.
- A license lapses if no Hotel Occupancy Tax is paid for one year. Documentation showing hotel taxes have been paid must be provided when the license is renewed. A three-month grace period will be allowed for licenses in good standing.
- Additional requirements per PDRD and Legal Staff recommendations.

Commercial STR owners are strongly encouraged to:

- Join rental property owners association
- Inform neighbors adjacent to and within one block proximity to STR.

Austin, TX

Attachment 2



**ORDINANCE NO. 20120802-122**

**AN ORDINANCE AMENDING CITY CODE CHAPTERS 25-2 (ZONING) AND 25-12 (TECHNICAL CODES) RELATING TO THE REGULATION OF SHORT-TERM RENTAL RESIDENTIAL USES; AND WAIVING THE TECHNICAL BOARD REVIEW REQUIREMENT OF SECTION 25-1-502.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Subsection (B) of City Code Section 25-2-3 (*Residential Uses Described*) is amended to add a new use classification, Short-Term Rental, to read as follows and to renumber the remaining classifications accordingly:

- (10) **SHORT-TERM RENTAL** use is the rental of a residential dwelling unit or accessory building, other than a unit or building associated with a group residential use, on a temporary or transient basis in accordance with Article 4, Division 1, Subpart C (*Requirements for Short-Term Rental Uses*) of this chapter. The use does not include an extension for less than 30 consecutive days of a previously existing rental agreement of 30 consecutive days or more. The use does not include a rental between parties to the sale of that residential dwelling unit.

**PART 2.** City Code Section 25-2-491 (*Permitted, Conditional, and Prohibited Uses*) is amended to add a new use, Short-Term Rental, and the chart in Subsection (C) is amended as follows:

Short-term rental use is a permitted use in the following base districts:

Lake Austin residence (LA)  
rural residence (RR)  
single-family residence large lot (SF-1)  
single-family residence standard lot (SF-2)  
family residence (SF-3)  
single-family residence small lot (SF-4A)  
single-family residence condominium site (SF-4B)  
urban family residence (SF-5)  
townhouse and condominium residence (SF-6)  
multifamily residence limited density (MF-1)

multifamily residence low density (MF-2)  
multifamily residence medium density (MF-3)  
multifamily residence moderate-high density (MF-4)  
multifamily residence high density (MF-5)  
multifamily residence highest density (MF-6)  
central business (CBD)  
downtown mixed use (DMU)

**PART 3.** City Code Chapter 25-2, Subchapter C, Article 4, Division 1 (*Residential Uses*) is amended to add a new Subpart C to read as follows:

***Subpart C. Requirements for Short-Term Rental Uses.***

**§ 25-2-788 SHORT-TERM RENTAL (TYPE 1) REGULATIONS.**

- (A) This section applies to a short-term rental use that:
- (1) is rented for periods of less than 30 consecutive days;
  - (2) is not part of a multifamily use; and
  - (3) is owner-occupied or is associated with an owner-occupied principal residential unit.
- (B) A short-term rental use under this section may not:
- (1) include the rental of less than an entire dwelling unit;
  - (2) operate without a license as required by Section 25-2-790 (*License Requirements*); or
  - (3) operate without providing notification to renters as required by Section 25-2-791 (*Notification Requirements*).
- (C) For a short-term rental use under this section, a secondary residential unit on the same property may be rented for periods of less than 30 consecutive days for an annual total of more than 90 days.

**§ 25-2-789 SHORT-TERM RENTAL (TYPE 2) REGULATIONS.**

- (A) This section applies to a short-term rental use that:
- (1) is rented for periods of less than 30 consecutive days;
  - (2) is not part of a multifamily use; and

- (3) is not owner-occupied and is not associated with an owner-occupied principal residential unit.
- (B) A short-term rental use under this section may not:
  - (1) include the rental of less than an entire dwelling unit;
  - (2) operate without a license as required by Section 25-2-790 (*License Requirements*); or
  - (3) operate without providing notification to renters as required by Section 25-2-791 (*Notification Requirements*).

**§ 25-2-790 LICENSE REQUIREMENTS.**

- (A) This section applies to a license required under Section 25-2-788 (*Short-Term Rental (Type 1) Regulations*) and Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*).
- (B) To obtain a license, the owner of a short-term rental use must submit an application on a form provided for that purpose by the director. The application must include the following:
  - (1) a fee established by separate ordinance;
  - (2) the name, street address, mailing address, facsimile number, and telephone number of the owner of the property;
  - (3) the name, street address, mailing address, facsimile number, and telephone number of a local responsible contact for the property;
  - (4) the street address of the short-term rental use;
  - (5) proof of property insurance;
  - (6) proof of payment of hotel occupancy taxes due as of the date of submission of the application; and
  - (7) any other information requested by the director.
- (C) The director shall issue a license under this section if:
  - (1) the application includes all information required under Subsection (B) of this section;
  - (2) the proposed short-term rental use complies with the requirements of Section 25-2-788 (*Short-Term Rental (Type 1) Regulations*) or Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*);

- (3) for a short-term rental use regulated under Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*), no more than 3% of the single-family, detached residential units within the census tract of the property are short-term rental (Type 2) uses as determined by the Director under Section 25-2-792 (*Determination of Short-Term Rental Density*); and
- (4) the structure has:
  - (a) a valid certificate of occupancy or compliance, as required by Chapter 25-1, Article 9 (*Certificates of Compliance and Occupancy*); or
  - (b) been determined by the building official not to pose a hazard to life, health, or public safety, based on a minimum life-safety inspection.
- (D) A license issued under this section:
  - (1) is valid for one year from the date of issuance, subject to a one-time extension of 30 days at the discretion of the director;
  - (2) may not be transferred by the property owner listed on the application and does not convey with a sale or transfer of the property; and
  - (3) satisfies the requirement for a change of use permit from residential to short-term rental use.
- (E) A license may be renewed annually if the owner:
  - (1) pays a renewal fee established by separate ordinance;
  - (2) provides documentation showing that hotel occupancy taxes have been paid for the property as required by Section 11-2-4 (*Quarterly Reports; Payments*) for the previous year; and
  - (3) provides updates of any changes to the information required under Subsection (B) of this section.
- (F) An advertisement promoting the availability of short-term rental property in violation of city code is prima facie evidence of a violation and may be grounds for revocation of a license.

#### **§ 25-2-791 NOTIFICATION REQUIREMENTS.**

- (A) The director shall provide a packet of information with each license summarizing the restrictions applicable to the short-term rental use, including:
  - (1) the name and contact information of the local responsible contact designated in the application;

- (2) occupancy limits applicable under Section 25-2-511 (*Dwelling Unit Occupancy Limit*);
  - (3) restrictions on noise applicable under Chapter 9-2 (*Noise and Amplified Sound*), including limitations on the use of amplified sound;
  - (4) parking restrictions;
  - (5) trash collection schedule;
  - (6) information on relevant burn bans;
  - (7) information on relevant water restrictions;
  - (8) information on applicable requirements of the Americans with Disabilities Act; and
  - (9) other guidelines and requirements applicable to short-term rental uses.
- (B) The owner or operator of a short-term rental use must:
- (1) provide renters a copy of the information packet under Subsection (A) of this section; and
  - (2) post the packet conspicuously in the common area of each dwelling rental unit included in the registration.
- (C) The director shall mail notice of the contact information for the local responsible contact to all properties within 100 feet of the short-term rental use, at the owner or operator's expense.

**§ 25-2-792 DETERMINATION OF SHORT-TERM RENTAL DENSITY.**

- (A) The director shall determine on an annual basis the total number of single-family, detached residential structures within each census tract and use that number to calculate the maximum number of licenses for Type 2 short-term rentals that may be issued under Section 25-2-790 (*Registration Requirements*).
- (B) The determination required under Subsection (A) of this section shall be based on the most current county tax records for each census tract within the zoning jurisdiction and may not be revised until the next annual determination is made.

**PART 4.** City Code Chapter 25-2, Subchapter E, Article 4, Subsection 4.2.1.C (*Mixed Use Combining District*) is amended to read as follows:

**C. Uses Allowed.**

In the MU combining district, the following uses are permitted:

- i.~~[1-]~~ Vertical mixed use buildings, subject to compliance with Section 4.3. of this Subchapter;
- ii.~~[2-]~~ Commercial uses that are permitted in the base district;
- iii.~~[3-]~~ Civic uses that are permitted in the base district;
- iv.~~[4-]~~ Townhouse residential;
- v.~~[5-]~~ Multifamily residential;
- vi.~~[6-]~~ Single-family residential;
- vii.~~[7-]~~ Single-family attached residential;
- viii.~~[8-]~~ Small lot single-family residential;
- ix.~~[9-]~~ Two-family residential;
- x.~~[10-]~~ Condominium residential;
- xi.~~[11-]~~ Duplex residential;
- xii.~~[12-]~~ Group residential;
- xiii.~~[13-]~~ Group home, class I (limited);
- xiv.~~[14-]~~ Group home, class I (general); ~~[and]~~
- xv.~~[15-]~~ Group home, class II; and
- xvi. Short-term rental.

**PART 5.** Sections 1308 (*License Suspension*) and 1309 (*Appeal from License Suspension or Denial*) of City Code Section 25-12-213 (*Local Amendments to International Property Maintenance Code*) is amended to read:

#### **1308 LICENSE SUSPENSION**

**PART 6.** The title of Chapter 13 of City Code Section 25-12-213 (*Local Amendments to International Property Maintenance Code*) is amended to read:

#### **CHAPTER 13 HOTEL, BOARDING HOUSE, ROOMING HOUSE, SHORT-TERM RENTAL, AND BED AND BREAKFAST ESTABLISHMENT REGULATIONS**

**PART 7.** Sections 1308 (*License Suspension*) and 1309 (*Appeal from License Suspension or Denial*) of City Code Section 25-12-213 (*Local Amendments to International Property Maintenance Code*) is amended to read:

### **1308 LICENSE SUSPENSION**

Whenever the code official finds on inspection of the physical premises or review of applicable records of any boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment that conditions or practices exist that violate any provision of the International Property Maintenance Code, City Code, or any rule or regulation adopted under this code, the code official shall give written notice to the owner of the property and the operator of the boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment that unless the violations are corrected by an identified deadline, the ~~[boarding house, hotel, rooming house, or bed and breakfast establishment]~~ license shall be suspended. At the end of the time provided for correction of the violation(s), the code official shall re-inspect the location or records of the boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment and, if the conditions or practices have not been corrected, shall suspend the license and give written notice to the licensee that the license has been suspended. On receipt of notice of suspension, the licensee shall immediately stop operation of the boarding house, hotel ~~[or]~~, rooming house, short-term rental, or bed and breakfast establishment, and no person may occupy for sleeping or living purposes any rooming unit therein, except that the code official may allow continued occupancy by the primary resident(s) of a short-term rental. The notice required by this subsection shall be served in accordance with the notice provisions of applicable law.

### **1309 APPEAL FROM LICENSE SUSPENSION OR DENIAL**

The following actions of the code official may be appealed to the Building and Standards Commission as provided in this Code:

1. the denial of an application for a license to operate a boarding house, hotel, rooming house, or bed and breakfast establishment;
2. the suspension of a license to operate a boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment; and
3. the issuance of a notice that a license to operate a boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment will be suspended unless existing conditions or practices are corrected.

An appeal filed under this section must be filed with the code official no later than the 20th day following the date on which the license was denied or suspended, or notice of violation was received. The appeal must be set for hearing before the Commission on the next available agenda date following receipt of the appeal and must be heard following setting on the scheduled agenda if a quorum is present at the hearing, unless the appellant requests a later date and waives the scheduled hearing.

**PART 8.** From the effective date of this ordinance through December 31, 2012, applications for a short-term rental (Type 2) use under Section 25-2-790 (*Registration*

*Requirements*) may only be submitted for a short-term rental (Type 2) use that existed as of June 13, 2011.

**PART 9.** The provisions of this ordinance relating to a short-term rental (Type 2) use constitute a pilot program. Council directs the city manager to present a report on the effectiveness of the program no later than one year after the effective date of this ordinance. The report should include, but not be limited to, data on impacts to neighborhood school enrollment, the conversion of long-term housing units to short-term rental (Type 2) units, and trends in the number and types of complaints made to the Code Compliance and Police Departments. If council finds that short-term rental (Type 2) uses have had significant negative effects on the community, council may consider termination of the short-term rental (Type 2) use.

**PART 10.** The council waives the requirement for technical board review under City Code Section 25-1-502 (*Amendment; Review*).

**PART 11.** This ordinance takes effect on October 1, 2012.

**PASSED AND APPROVED**

_____ August 2, 2012	§ § § _____ Lee Heflinger Mayor
APPROVED: _____ Karen M. Kennard City Attorney	ATTEST: _____ Shirley A. Gentry City Clerk



Austin, TX

Attachment 3

**ORDINANCE NO. 20130926-144**

**AN ORDINANCE AMENDING CITY CODE CHAPTERS 25-2 AND 25-12 RELATING TO THE REGULATION OF SHORT-TERM RENTAL RESIDENTIAL USES AND OTHER REGULATED LODGING ESTABLISHMENTS; AUTHORIZING THE LIMITED REFUND OR CREDIT FOR CERTAIN FEES PAID; AND WAIVING THE REVIEW REQUIREMENT OF SECTION 25-1-502.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** City Code Section 25-2-491 (*Permitted, Conditional, and Prohibited Uses*) is amended to amend the chart in Subsection (C) as follows:

Short-term rental use is a permitted use in the following base districts:

- Lake Austin residence (LA)
- rural residence (RR)
- single-family residence large lot (SF-1)
- single-family residence standard lot (SF-2)
- family residence (SF-3)
- single-family residence small lot (SF-4A)
- single-family residence condominium site (SF-4B)
- urban family residence (SF-5)
- townhouse and condominium residence (SF-6)
- multifamily residence limited density (MF-1)
- multifamily residence low density (MF-2)
- multifamily residence medium density (MF-3)
- multifamily residence moderate-high density (MF-4)
- multifamily residence high density (MF-5)
- multifamily residence highest density (MF-6)
- central business (CBD)
- downtown mixed use (DMU)

planned unit development (PUD)

general retail – mixed use (GR-MU)

commercial services – mixed use (CS-MU)

commercial services –vertical mixed use (CS-V)

general retail - vertical mixed use (GR-V)

**PART 2.** City Code Chapter 25-2, Subchapter C, Article 4, Division 1 (*Residential Uses*) is amended to amend Subpart C (*Requirements for Short-Term Rental Uses*) to read as follows:

***Subpart C. Requirements for Short-Term Rental Uses.***

**§ 25-2-788 SHORT-TERM RENTAL (TYPE 1) REGULATIONS.**

(A) This section applies to a short-term rental use that:

(1) is rented for periods of less than 30 consecutive days;

~~[(2) is not part of a multifamily use;]~~ and

(2) is owner-occupied or is associated with an owner-occupied principal residential unit.

(B) A short-term rental use under this section may not:

(1) include the rental of less than an entire dwelling unit, unless all of the following conditions are met:

(a) a partial unit must at a minimum include the exclusive use of a sleeping room and shared use of a full bathroom;

(b) the owner is generally present at the licensed short-term rental property for the duration of any short-term rental of a partial unit;

(c) not more than one partial unit at the property is simultaneously rented for any period less than 30 consecutive days; and

(d) rental of the partial unit is limited to a single party of individuals;

(2) operate without a license as required by Section 25-2-791[9] (*License Requirements*); or

(3) operate without providing notification to renters as required by Section 25-2-792[1] (*Notification Requirements*).

~~[(C) For a short-term rental use under this section, a secondary residential unit on the same property may be rented for periods of less than 30 consecutive days for an annual total of more than 90 days.]~~

**§ 25-2-789 SHORT-TERM RENTAL (TYPE 2) REGULATIONS.**

- (A) This section applies to a short-term rental use that:
- (1) is rented for periods of less than 30 consecutive days;
  - (2) is not part of a multifamily use; and
  - (3) is not owner-occupied and is not associated with an owner-occupied principal residential unit.
- (B) A short-term rental use under this section may not:
- (1) include the rental of less than an entire dwelling unit;
  - (2) operate without a license as required by Section 25-2-791[0] (*License Requirements*); or
  - (3) operate without providing notification to renters as required by Section 25-2-792[1] (*Notification Requirements*).

**§ 25-2-790 SHORT-TERM RENTAL (TYPE 3) REGULATIONS.**

- (A) This section applies to a short-term rental use that:
- (1) is rented for periods of less than 30 consecutive days; and
  - (2) is part of a multifamily use.
- (B) A short-term rental use under this section may not:
- (1) include the rental of less than an entire dwelling unit;
  - (2) operate without a license as required by Section 25-2-791 (*License Requirements*); or
  - (3) operate without providing notification to renters as required by Section 25-2-792 (*Notification Requirements*).

**§ 25-2-791[0] LICENSE REQUIREMENTS.**

- (A) This section applies to a license required under Section 25-2-788 (*Short-Term Rental (Type 1) Regulations*), ~~and~~ Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*), and Section 25-2-790 (*Short-Term Rental (Type 3) Regulations*).

(B) To obtain a license, the owner of a short-term rental use must submit an application on a form provided for that purpose by the director. The application must include the following:

- (1) a fee established by separate ordinance;
- (2) the name, street address, mailing address, [~~facsimile number,~~] and telephone number of the owner of the property;
- (3) the name, street address, mailing address, [~~facsimile number,~~] and telephone number of a local responsible contact for the property;
- (4) the street address of the short-term rental use;
- (5) proof of property insurance;
- (6) proof of payment of hotel occupancy taxes due as of the date of submission of the application; and
- (7) any other information requested by the director.

(C) The director shall issue a license under this section if:

- (1) the application includes all information required under Subsection (B) of this section;
- (2) the proposed short-term rental use complies with the requirements of Section 25-2-788 (*Short-Term Rental (Type 1) Regulations*), [~~or~~] Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*), or Section 25-2-790 (*Short-Term Rental (Type 3) Regulations*);
- (3) for a short-term rental use regulated under Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*), no more than 3% of the single-family, detached residential units within the census tract of the property are short-term rental (Type 2) uses as determined by the Director under Section 25-2-793[2] (*Determination of Short-Term Rental Density*); and
  - (a) [~~(4)~~] the structure has[~~;~~] [~~(a)~~] a valid certificate of occupancy or compliance, as required by Chapter 25-1, Article 9 (*Certificates of Compliance and Occupancy*); or
  - (b) the structure has been determined by the building official not to pose a hazard to life, health, or public safety, based on a minimum life-safety inspection;[~~;~~]
- (4) for a short-term rental use regulated under Section 25-2-790 (*Short-Term Rental (Type 3) Regulations*), located in a non-commercial zoning district, no more than 3% of the total number of dwelling units at the

property and no more than 3% of the total number of dwelling units located within any building or detached structure at the property are short-term rental (Type 3) uses as determined by the Director under Section 25-2-793 (*Determination of Short-Term Rental Density*); and

(a) the structure and the dwelling unit at issue have a valid certificate of occupancy or compliance, as required by Chapter 25-1, Article 9 (*Certificates of Compliance and Occupancy*); or

(b) the structure and the dwelling unit at issue have been determined by the building official not to pose a hazard to life, health, or public safety, based on a minimum life-safety inspection.

(5) For a short-term rental use regulated under Section 25-2-790 (*Short-Term Rental (Type 3) Regulations*), located in a commercial zoning district, no more than 25% of the total number of dwelling units at the property and no more than 25% of the total number of dwelling units located within any building or detached structure at the property are short-term rental (Type 3) uses as determined by the Director under Section 25-2-793 (*Determination of Short-Term Rental Density*); and

(a) the structure and the dwelling unit at issue have a valid certificate of occupancy or compliance, as required by Chapter 25-1, Article 9 (*Certificates of Compliance and Occupancy*); or

(b) the structure and the dwelling unit at issue have been determined by the building official not to pose a hazard to life, health, or public safety, based on a minimum life-safety inspection.

(D) A license issued under this section:

- (1) is valid for a maximum of one year from the date of issuance, subject to a one-time extension of 30 days at the discretion of the director;
- (2) may not be transferred by the property owner listed on the application and does not convey with a sale or transfer of the property; and
- (3) satisfies the requirement for a change of use permit from residential to short-term rental use.

(E) A license may be renewed annually if the owner:

- (1) pays a renewal fee established by separate ordinance;
- (2) provides documentation showing that hotel occupancy taxes have been paid for the licensed unit [~~property~~] as required by Section 11-2-4 (*Quarterly Reports; Payments*) for the previous year; and

- (3) provides updates of any changes to the information required under Subsection (B) of this section.
- (F) An advertisement promoting the availability of short-term rental property in violation of city code is prima facie evidence of a violation and may be grounds for denial, suspension, or revocation of a license.
- (G) Notwithstanding any provision of Section 25-2-791(F) to the contrary, a person may advertise the availability of an unlicensed short term rental and the advertisement is not grounds for license denial if the director determines all of the following:
  - (a) The person owns the property advertised or has obtained the owner's authorization to advertise the property for short term rental solely to gauge public interest in the property for short term rental use;
  - (b) The advertisement does not depict or describe availability of the property for uses or occupancy that would violate code, except for the lack of a short term rental license; and
  - (c) The property advertised is not in operation as short term rental.

**§ 25-2-792[1] NOTIFICATION REQUIREMENTS.**

- (A) The director shall provide a packet of information with each license summarizing the restrictions applicable to the short-term rental use, including:
  - (1) the name and contact information of the local responsible contact designated in the application;
  - (2) occupancy limits applicable under Section 25-2-511 (*Dwelling Unit Occupancy Limit*);
  - (3) restrictions on noise applicable under Chapter 9-2 (*Noise and Amplified Sound*), including limitations on the use of amplified sound;
  - (4) parking restrictions;
  - (5) trash collection schedule;
  - (6) information on relevant burn bans;
  - (7) information on relevant water restrictions;
  - (8) information on applicable requirements of the Americans with Disabilities Act; and
  - (9) other guidelines and requirements applicable to short-term rental uses.
- (B) The owner or operator of a short-term rental use must:

- (1) provide renters a copy of the information packet under Subsection (A) of this section; and
  - (2) post the packet conspicuously in the common area of each dwelling rental unit included in the registration.
- (C) The director shall mail notice of the contact information for the local responsible contact to all properties within 100 feet of the short-term rental use, at the owner or operator's expense.

**§ 25-2-793[2] DETERMINATION OF SHORT-TERM RENTAL DENSITY.**

- (A) The director shall determine on an annual basis the total number of single-family, detached residential structures within each census tract and use that number to calculate the maximum number of licenses for Type 2 short-term rentals that may be issued under Section 25-2-790 (*Registration Requirements*).
- (B) The determination required under Subsection (A) of this section shall be based on the most current utility ~~[county tax]~~ records for each census tract within the zoning jurisdiction and may not be revised until the next annual determination is made.
- (C) For a short-term rental use regulated under Section 25-2-790 (*Short-Term Rental (Type 3) Regulations*), the Director shall determine based on active license records following receipt of an application that complies with the requirements of Section 25-2-791(B) (*License Requirements*) whether issuance of the license would result in the short-term rental use of more than 3% of the total number of dwelling units at the property or more than 3% of the total number of dwelling units within any building or detached structure at the property.
- (D) For a short-term rental use regulated under Section 25-2-789 (*Short-Term Rental (Type 2) Regulations*), one short-term rental (Type 2) license per census tract may be permitted if no other property within the census tract is currently licensed as a short-term rental (Type 2) use and the use complies with all other license requirements, even if approval of a single Type 2 license in the census tract would otherwise exceed the density cap under Subsection (A) or (B) of this section or fail to meet the standard of Section 25-2-791(C)(3).
- (E) For a short-term rental use regulated under Section 25-2-790 (*Short-Term Rental (Type 3) Regulations*), one short-term rental (Type 3) license per property may be permitted if no other dwelling unit or structure in the building or at the property is currently licensed as a short-term rental (Type 3) use and the use complies with all other license requirements, even if approval of a single Type 3 for the building or property would otherwise exceed the density



cap under Subsection (C) of this section or fail to meet the standard of Section 25-2-791(C)(4).

**PART 3.** City Code Section 25-12-213 (*Local Amendments to International Property Maintenance Code*), as adopted by Ordinance No. 20130926-145, is amended to add a new Chapter 13 as a local amendment to the Property Maintenance Code, to read as follows:

## **CHAPTER 13**

### **REGULATED LODGING ESTABLISHMENTS**

#### **1301 INSPECTIONS**

The code official shall make inspections to determine the condition of boarding houses, hotels, rooming houses and bed and breakfast establishments located within the City, to ensure compliance with this chapter and other applicable laws. For the purpose of making inspections, the code official or the code official's representative may enter, examine, and survey, at all reasonable times, all buildings, dwelling units, guest rooms, and premises on presentation of the proper credentials. The owner or operator of a boarding house, hotel, rooming house, or bed and breakfast establishment, or the person in charge, shall give the code official free access to the building, dwelling unit, partial unit, guest room and its premises, at all reasonable times, for the purpose of inspection, examination, and survey.

#### **1302 LICENSES AND PERMITS REQUIRED**

No person may operate a boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment unless a license for the operation, in the name of the owner or operator and for the specific dwelling unit, partial unit, accessory unit, building, structure, or property used, has been issued by the code official and is currently valid and in good standing. Unless specifically exempted by the provisions of Chapter 10-3 (*Food and Food Handlers*) of the City Code, each regulated lodging establishment that provides meals or food service is required to have a permit as a food service establishment issued by the Health Authority.

#### **1303 LEASING, RENTING, OR ADVERTISING UNITS OR ROOMS IN AN UNLICENSED HOTEL, BOARDING HOUSE, ROOMING HOUSE, SHORT-TERM RENTAL, OR BED AND BREAKFAST ESTABLISHMENT IS AN OFFENSE**

(A) An owner, manager, operator, or person in control of a hotel, boarding house, rooming house, short-term rental, or bed and breakfast establishment commits an offense if the owner or other person leases, rents, advertises, promotes, or otherwise solicits or induces occupancy of a room, structure, dwelling unit, or partial unit in a hotel, boarding house, rooming house, short-term rental, or bed and breakfast establishment which does

not have a valid license issued and displayed as required by this chapter or as required by Title 25 of City Code (*Land Development*).

(B) A person may not advertise or promote a licensed establishment without including the license number assigned to the establishment by the city in the advertisement or promotion.

(C) Each day that an owner, manager, operator, or other person in control of the property leases, rents, advertises, promotes, or otherwise solicits or induces occupancy of a room in a hotel, boarding house, rooming house, short-term rental, or bed and breakfast establishment which does not have a valid license issued, disclosed, and displayed as required by this chapter is a separate occurrence. An offense under this section is a class C misdemeanor, punishable by a fine not to exceed \$500 per offense, per occurrence, unless proof of a culpable mental state is proven. If proof of a culpable mental state is demonstrated, an offense under this section is punishable by a fine not to exceed \$2,000 per occurrence.

(D) It is an affirmative defense to a violation of Section 1304 charging a person with advertisement or promotion of an unlicensed establishment that the advertisement or promotion of the unlicensed establishment identified the establishment address and conspicuously disclosed that reservation, occupancy, or rental of the facility is contingent on a pending city licensure application.

### **1304 APPLICATION**

An application for a license required by this chapter at minimum must be in writing and submitted to the code official. To be considered complete, the application must include all information and documentation required by the Land Development Code regulations specific to the use type or indicated as required by the code official and this code.

### **1305 FEE**

Each application for a rooming house, hotel, motel, boarding house, short-term rental, or bed and breakfast establishment license must be accompanied by the payment of a fee in an amount established by separate ordinance. Except for payment of the fee due for a short-term rental, a regulated lodging establishment fee shall be pro-rated on a quarterly basis.

### **1306 ISSUANCE**

A boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment license shall be issued by the code official after the code official determines that the owner or operator has complied with all applicable ordinances and rules. A license shall not be issued or renewed by the code official for any applicant or

location in the absence of proof of the applicant or location's substantial compliance with all applicable local hotel occupancy tax rules and regulations.

### **1307 LICENSE SUSPENSION**

(A) Whenever the code official finds on inspection of the physical premises or review of applicable records of any boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment that conditions or practices exist that violate any provision of the International Property Maintenance Code, City Code, or any rule or regulation adopted under this code, or that the establishment has failed to comply with any provision, prohibition, or requirement related to the registration, reporting, collection, segregation, accounting, disclosure, or payment of local hotel occupancy taxes, the code official shall give written notice to the owner of the property and the operator of the boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment that unless the violations are corrected by an identified deadline, the license shall be suspended.

(B) At the end of the time provided for correction of the violation(s), the code official shall re-inspect the location or records of the boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment and, if the conditions or practices have not been corrected, shall suspend the license and give written notice to the licensee that the license has been suspended.

(C) On receipt of notice of suspension, the licensee shall immediately stop operation of the boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment, and no person may occupy for sleeping or living purposes any rooming unit therein, except that the code official may allow continued occupancy by the property owner of a short-term rental use subject to Section 25-2-788 (*Short-Term Rental (Type 1) Regulations*). The notice required by this subsection shall be served in accordance with the notice provisions of applicable law.

### **1308 APPEAL FROM LICENSE SUSPENSION OR DENIAL**

The following actions of the code official may be appealed to the Building and Standards Commission as provided in this Code:

1. the denial of an application for a license to operate a boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment;
2. the suspension of a license to operate a boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment; and
3. the issuance of a notice that a license to operate a boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment will be suspended unless existing conditions or practices are corrected.

An appeal filed under this section must be filed with the code official no later than the 20th day following the date on which the license was denied or suspended, or notice of violation was received. The appeal must identify each alleged point of error, facts and evidence supporting the appeal, reasons why the action of the code official should be set aside, modified, or reversed, and must be sworn. The appeal must be set for hearing before the Commission on the next available agenda date following receipt of the appeal and must be heard following setting on the scheduled agenda if a quorum is present at the hearing, unless the appellant requests a later date and waives the scheduled hearing.

### **1309 EXPIRATION**

(A) Each rooming house, boarding house, hotel, motel, or bed and breakfast establishment license expires at the end of the calendar year for which the license is issued, unless prior to the end of the calendar year, the license is voided, suspended, or revoked as provided in this chapter, as provided in another section of City Code, or by court order, or other operation of law.

(B) Each short-term rental establishment license expires one year from the date the license is issued, unless prior to the end of one year from the date the license is issued, the license is voided, suspended, or revoked as provided in this chapter, as provided in another section of City Code, or by court order, or other operation of law.

### **1310 TRANSFER AND NOTICE ON SALE OF PREMISES**

A license issued under this chapter is not transferable. Every person holding a license shall give written notice to the code official no later than 10 days before the conveyance, transfer, or any other disposition of the ownership of, interest in, or control of any boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment. The notice must include the name and address of the person succeeding to the ownership or control of the boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment.

### **1311 DISPLAY**

The license required by this chapter must be displayed at all times in a conspicuous place designated by the code official within each boarding house, hotel, rooming house, short-term rental, or bed and breakfast establishment.

**PART 4.** For 90 days following the effective date of this ordinance, a short-term rental (Type 3) application submitted under Section 25-2-791 (*License Requirements*) is exempt from short-term rental density caps if the director determines that use of the dwelling unit or partial unit as a short term rental existed before September 26, 2013.

**PART 5.** Council approves and directs the City Manager to process a one-time refund, or to provide a one-time credit against a license renewal fee, in the total amount of

\$191.00 per license as applicable to any short-term rental (Type1) or short-term rental (Type 2) license holder who demonstrates that the person paid the City the short-term rental application notification fee in full on a date when the fee charged by the City for such notification was \$241.00 per license and prior to the date when the notification fee was reduced by the City to \$50.00 per license, and who attests that the person is not currently in arrears for payment to the City of hotel occupancy taxes on the licensed property, or otherwise in noncompliance with respect to any other City requirement relating to, hotel occupancy tax collection, reporting, bill or receipt disclosure, account segregation, or timely payment for taxes on the licensed use.

**PART 6.** The council waives the requirement for technical board review under City Code Section 25-1-502 (*Amendment; Review*).

**PART 7.** This ordinance takes effect on January 1, 2014.

**PASSED AND APPROVED**

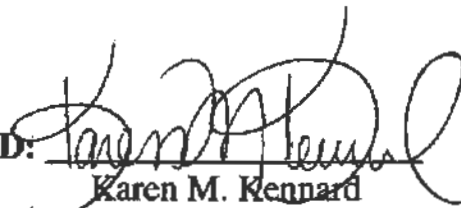
September 26, 2013

§  
§  
§




Lee Leffingwell  
Mayor

**APPROVED:**



Karen M. Kennard  
City Attorney

**ATTEST:**



Jannette S. Goodall  
City Clerk

Austin, TX

Attachment 4



# City of Austin Vacation Rental Licensing Program

## ORDINANCE

#20130926-144

approved on  
September 26, 2013  
amended City Code  
Chapters 25-2 and 25-  
12 which provide for  
the regulation,  
monitoring and  
licensing of short-term  
rentals (STRs).

## VACATION RENTALS

are the rental of a  
residential dwelling unit  
or accessory building  
on a temporary basis  
for periods of **less  
than 30 consecutive  
days**.

The Austin City  
Council passed an  
ordinance  
effective  
October 1, 2012,  
requiring  
registration of  
vacation rental  
properties.



For Austin residents and visitors  
seeking a place to stay for a short  
period of time, renting a house has  
become an increasingly popular  
option.

These "vacation rentals", also called  
short-term rentals or STRs, offer  
flexibility, a more authentic Austin  
experience for visitors, and can  
provide a source of income for the  
property owner.

The City of Austin requires everyone  
who leases their property as a short-  
term rental to license it with the  
**Vacation Rental Licensing  
Program**.

\* Incomplete applications will not  
be accepted

## LICENSING PROCESS

- **COMPLETE** a City of Austin  
Vacation Rental Application Form  
(available online)
- **SUBMIT\*** the following to the City  
of Austin Code Department:
  - ☐ **Vacation Rental Application**
  - ☐ **\$285 Fee**
    - \$235 Annual Licensing Fee
    - \$50 Notification Fee
  - ☐ **Proof of Property Insurance**
    - summary or declarations page  
from current insurance policy
  - ☐ **Proof of Payment of Hotel  
Occupancy Taxes** (if applicable)
  - ☐ **Certificate of Occupancy OR  
Certified 3rd Party Inspection**
- **ALLOW** 3-5 business days for  
processing and approval
- **POST** the operating license and  
vacation rental information  
packet (which will be mailed) in a  
visible, common area, inside the  
rental property

## RENEWAL PROCESS

- ☐ **\$235 Fee**
- ☐ **Proof of Property Insurance**
- ☐ **Proof of Payment of Hotel  
Occupancy Taxes**

# City of Austin Vacation Rental Licensing Program



## REQUIREMENTS



### There are **THREE** Types of Vacation Rentals:

#### **TYPE 1** - owner occupied

##### **Type 1 Rentals:**

- are owner-occupied or associated with an owner-occupied principal residential unit
- include the rental of an entire dwelling unit **or**
- if only part of the unit, include at a minimum a sleeping room (with shared full bathroom), is limited to a single party of individuals, and the owner is generally present during the rental

#### **TYPE 2** - not owner occupied

##### **Type 2 Rentals:**

- are single-family or two-family properties
- are not owner-occupied or associated with an owner-occupied principal residential unit
- include the rental of an entire dwelling unit
- not be more than 3% of the single-family or two-family detached residential units within the census tract

#### **TYPE 3** - multifamily/commercial

##### **Type 3 Rentals:**

- are part of a multifamily use (apartments, condos, etc.)
- include the rental of an entire dwelling unit
- must provide documentation of total number of buildings on property and units per building
- comply with applicable geographic caps

### LOCATION

Austin Code Department  
1520 Rutherford Lane  
Building One  
Austin, TX 78754

Walk-ins accepted from  
9 a.m. - 2:30 p.m.

### QUESTIONS

email:

[STRlicensing@austintexas.gov](mailto:STRlicensing@austintexas.gov)

call:

3-1-1

### FAQ & RESOURCES

visit:

[austintexas.gov/STR](http://austintexas.gov/STR)



**AUSTINCODE**  
**DEPARTMENT**

Vacation Rental Operating Licenses are  
monitored and issued by the  
City of Austin Code Department





# City of Austin

## Vacation Rental Frequently Asked Questions

### ORDINANCE

#20130926-144

approved on  
September 26, 2013  
amended City Code  
Chapters 25-2 and 25-  
12 which provide for  
the regulation,  
monitoring and  
licensing of short-term  
rentals (STRs).

### SHORT-TERM / VACATION RENTALS

are the rental of a  
residential dwelling unit  
or accessory building  
on a temporary basis  
for periods of **less  
than 30 consecutive  
days**.

The Austin City  
Council passed an  
ordinance  
effective  
October 1, 2012,  
requiring  
registration of  
vacation rental  
properties.

#### HOW LONG IS THE VACATION RENTAL OPERATING LICENSE VALID?

The Vacation Rental Operating License is valid for 12-months from the time of approval and may be renewed on an annual basis.

#### IS MY VACATION RENTAL LICENSE TRANSFERABLE?

The Vacation Rental Operating License is non-transferable per Ordinance #20130926-144, "a license may not be transferred and does not convey with the sale or transfer of the property".

#### HOW MUCH IS THE VACATION RENTAL LICENSING AND NOTIFICATION FEE?

The Vacation Rental licensing fee is \$235.00. There is also a notification cost of \$50.00 from the Planning & Development Review Department to notify adjacent neighbors as outlined in the amended ordinance. A total of \$285.00 is due at the time your application is submitted.

#### ARE THERE PAYMENT OPTIONS FOR THE LICENSING AND NOTIFICATION FEE?

The \$235.00 licensing fee and \$50.00 notification fee must both be paid in full via cash, check, or money-order, payable to: the City of Austin, Code Department. At this time the program does not accept credit cards or online payments and exact change is required for cash payments.

#### HOW DO I RENEW MY VACATION RENTAL OPERATING LICENSE?

A Vacation Rental Operating License may be renewed each year by submitting a \$235.00 licensing fee, proof of current property insurance, and proof of Hotel Occupancy Tax (if applicable).

#### WHERE DO I GET A CERTIFICATE OF OCCUPANCY AND IS THERE A FEE?

A Certificate of Occupancy, or "CO" can be obtained at no cost from the City of Austin, Building Inspections Division located at: One Texas Center, 505 Barton Springs Road, 3rd Floor.

#### IF I DO NOT GET A "CO", WHERE DO I GO FOR AN INSPECTION INSTEAD?

An inspection can be provided by a professional inspector certified by the Texas Real Estate Commission or a Residential Combination Inspector certified by the International Code Council. This is the only license or certification currently accepted for the inspection and issuance of the Operation License.

#### WHERE DO I TURN IN MY APPLICATION & DOCUMENTS?

To submit your application, please make an appointment by calling 3-1-1 or visit us Monday through Friday between 9 a.m. and 2:30 p.m. The City of Austin, Code Department is located at: 1520 Rutherford Lane, Building One.

#### DOES PROOF OF HOTEL OCCUPANCY TAX APPLY TO EVERYONE?

Every person owning, operating, managing, controlling, or collecting payment for occupancy in any hotel (or vacation rental), located within the City of Austin's full purpose or limited purpose jurisdiction, shall collect the Hotel Occupancy Tax from their guests for the City. To see if your property is located in the full purpose or limited purpose jurisdiction, visit: [www.ffiec.gov/Geocode/default.aspx](http://www.ffiec.gov/Geocode/default.aspx)

#### WHERE DO I PAY MY HOTEL OCCUPANCY TAX?

You may call the City of Austin, Financial Services: Controller's Office at 512-974-2590, then press 1, or email: [hotels@austintexas.gov](mailto:hotels@austintexas.gov).

#### WHAT IF I DON'T GET A LICENSE FOR MY VACATION RENTAL?

Failure to register is equivalent to operating without a license and may result in enforcement action, including citations.

# City of Austin Vacation Rental Resources



## **CITY OF AUSTIN, FINANCIAL SERVICES: CONTROLLER'S OFFICE**

### **Hotel Occupancy Tax Information, Forms & Instructions**

**Email:** [hotels@austintexas.gov](mailto:hotels@austintexas.gov)

**Address:** 124 W. 8th Street, Suite 140

**Phone:** 512-974-2590, press 1

**Website:** [austintexas.gov/departments/hotel-occupancy-taxes](http://austintexas.gov/departments/hotel-occupancy-taxes)

## **CITY OF AUSTIN, PLANNING & DEVELOPMENT REVIEW DEPARTMENT BUILDING INSPECTION DIVISION**

### **Certificates of Occupancy**

**Address:** One Texas Center, 505 Barton Springs Road, 3rd Floor

**Walk-In Hours:** Monday - Friday; 7:30 a.m. to 3:30 p.m.

**Phone:** 512-978-4000

**Website:** [austintexas.gov/departments/building-inspections](http://austintexas.gov/departments/building-inspections)

## **CITY OF AUSTIN, CODE DEPARTMENT**

### **Vacation Rental Operating License**

**Email:** [STRlicensing@austintexas.gov](mailto:STRlicensing@austintexas.gov)

**Address:** 1520 Rutherford Lane, Building One

**Mailing Address:** PO Box 1088, Austin, TX 78767

**Walk-In Hours:** Monday - Friday; 9:00 a.m. to 3:00 p.m.

**Phone:** 3-1-1

**Website:** [austintexas.gov/STR](http://austintexas.gov/STR)

## **QUESTIONS**

**email:**

[STRlicensing@austintexas.gov](mailto:STRlicensing@austintexas.gov)

**call:**

3-1-1

**visit:**

[austintexas.gov/STR](http://austintexas.gov/STR)

## **TEXAS REAL ESTATE COMMISSION (TREC)**

### **Professional Inspector \***

**Website:** [trec.state.tx.us/inspector](http://trec.state.tx.us/inspector) (on the left side of the webpage under Inspector Info, click on Find Inspectors by City, then select Austin)

## **INTERNATIONAL CODE COUNCIL (ICC)**

### **Certified Residential Combination Inspector \***

do a web search for **home inspectors** and when contacting a company, verify the inspector holds this certification and the certification is current.



## **AUSTINCODE DEPARTMENT**

Vacation Rental Operating Licenses are  
monitored and issued by the  
City of Austin Code Department

\* The STR inspection checklist must be completed and a copy of the receipt for the service must be attached to the inspection.



# City of Austin

## Vacation Rental Definitions and Acronyms

### QUESTIONS

email:

[STRlicensing@austintexas.gov](mailto:STRlicensing@austintexas.gov)

call:

3-1-1

visit:

[austintexas.gov/STR](http://austintexas.gov/STR)

**ACD** - Austin Code Department. ACD is located at 1520 Rutherford Lane, Building 1

**CO or Amnesty CO** - Certificate of Occupancy.

COs are issued by the City of Austin Development Assistance Center at 505 Barton Springs Road, 3rd Floor. If you do not have a certificate of occupancy, you can request one by filling out an [Amnesty Certificate of Occupancy form](#).

**Multifamily Property** - A residential site with three or more dwelling units, within one or more buildings, and includes condominium residential use.

**Notification Fee** - The cost incurred by the City of Austin to notify adjacent neighbors as outlined in Section 25-2-792 (Notification Requirements) in Ordinance No. 20130926-144.

**Partial Unit** - Part of a dwelling includes at a minimum a sleeping room (with shared full bathroom) and is limited to a single party of individuals.

**PDR** - Planning and Development Review Department. PDR is located at 505 Barton Springs Road.

**STR** - Short-Term Rental Property. STRs include the rental of a residential dwelling unit or accessory building on a temporary basis for periods of **less than 30 consecutive days**.

**Type 1** - owner occupied short-term rental (full or partial unit).

Type 1 short-term rentals are owner-occupied or associated with an owner-occupied principal residential unit, include the rental of an entire dwelling unit or if only part of the unit include at a minimum a sleeping room (with shared full bathroom), is limited to a single party of individuals, and the owner is generally present during the rental.

**Type 2** - not owner occupied short-term rental.

Type 2 short-term rentals are single or two-family properties, not owner-occupied or associated with an owner-occupied principal residential unit, include the rental of an entire dwelling unit, and must not be more than 3% of the single-family detached residential units within the census tract.

**Type 3** - multifamily / commercial short-term rental.

Type 3 multifamily / commercial short-term rentals are not owner-occupied, part of a multifamily use (apartments, condos, etc.), include the rental of an entire dwelling unit, and must comply with applicable geographic caps.

Chicago, IL

Attachment 1

**Vacation rentals draft 28 alternative sub 6/22/10**

**SUBSTITUTE**  
**ORDINANCE**

**WHEREAS**, the City of Chicago is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6 (a); and

**WHEREAS**, pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs including promoting the quality of life and the welfare of its citizens; and

**WHEREAS**, annually there are over 44 million domestic and leisure visitors coming to Chicago; and

**WHEREAS**, hotels and bed and breakfast establishments lodge millions of visitors annually in Chicago; and

**WHEREAS**, there are over 30,000 hotel rooms within a five-mile range of McCormick Place alone and an expected 3,000 additional hotel rooms by 2010; and

**WHEREAS**, in many cities that traditionally attract a large amount of tourists, homeowners have become entrepreneurs by renting their homes on a daily and weekly basis to travelers looking for a safe yet less-expensive alternative to hotels; and

**WHEREAS**, the demand for such rentals has created an unregulated, growing industry which is rapidly spreading across numerous Chicago neighborhoods as well as other major metropolitan cities and vacation destinations in the United States that attract large tourist populations; and

**WHEREAS**, cities in Arizona, California, Florida, Hawaii, Maine, New York, New Mexico, North Carolina, Oregon and Pennsylvania, which consistently register high numbers of visitors staying overnight in hotels, are working to impose restrictions on the booming business of daily and weekly rentals by individual owners; and

**WHEREAS**, currently the Municipal Code of the City of Chicago places no restrictions on this growing industry and currently regulates hotels and bed and breakfast establishments, through taxation and by requiring licenses; and

**WHEREAS**, all establishments used for transient guests in the City of Chicago that do not fall under the category of hotels and bed and breakfast establishments should be regulated for the health and safety of all visitors;

**WHEREAS**, although other governmental bodies are considering similar legislation, the City of Chicago would be the first large municipality to set the standard by regulating rentals on a daily and weekly basis by private entities; **NOW, THEREFORE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:**

**SECTION 1:** Section 4-5-010 of the Municipal Code of Chicago is hereby amended by

adding the language underscored, as follows:

**4-5-010 Establishment of license fees.**

*(omitted text is unaffected by this ordinance)*

(84) Vacation rental.....\$500.00

*(omitted text is unaffected by this ordinance)*

**SECTION 2:** Title 4 of the Municipal Code of Chicago is hereby amended by adding a new chapter 4-207, as follows:

**Chapter 4-207 Vacation Rentals**

**4-207-010 Definitions**

For purposes of this chapter:

"Applicant" means a person; or any partner, if a general partnership; any general partner, if a limited partnership; any principal officer, if a corporation; any managing member, if a limited liability company; or any owner of 25% or more of the applicant, or in the case of a cooperative building, a lessee with a proprietary lease of a cooperative in the cooperative building.

"Board of directors" means the board of directors of a cooperative building.

"Cooperative building" is a multiple-dwelling complex owned by a cooperative corporation, stock in which affords the owner thereof the right to possess or occupy a particular cooperative allocated to that stock within the complex. This right of possession or occupancy is granted through a proprietary lease or similar arrangement, and, unlike the owner of a condominium, the owner of the cooperative stock does not hold legal title to his or her individual cooperative.

"Cooperative" is an individual dwelling unit within a cooperative building.

"Department" means the department of business affairs and consumer protection.

"Commissioner" means the commissioner of business affairs and consumer protection.

"Dwelling unit" has the meaning ascribed to that term in section 17-17-0248.

"Homeowners association" means the association of all the unit owners, acting pursuant to bylaws through its duly elected board of managers. For purposes of this definition "unit owner" means the person or persons whose estates or interest, individually or collectively, aggregate fee simple absolute ownership of a unit, or in the case of a leasehold condominium, the lessee or lessees of a unit whose leasehold of the unit expires simultaneously with the lease.

"Local contact person" means a person authorized as an agent of the owner who: (1) is designated for service of process; (2) is authorized by the owner to take remedial action and respond to any violation of this code; and (3) maintains a residence or office located in the city.

"Owner" shall include, for purposes of this chapter only, a person who is a lessee of a cooperative pursuant to a proprietary lease.

"Owner-occupied dwelling unit" means a dwelling unit that a person who owns 25% or more of the interest in the dwelling unit; or in the case of a cooperative building is a lessee of a cooperative pursuant to a proprietary lease, resides in the dwelling unit as his or her domicile or permanent place of residence; provided that a dwelling unit for which an owner or lessee (i) is absent from the dwelling unit overnight for any longer period of time not to exceed 120 days within a 12-month period; or (ii) is on active military duty for any length of time; and (iii) appoints a designated agent or employee to manage, control and reside in the dwelling unit during the owner's or lessee's absence is considered owner-occupied.

"Transient occupancy" means any occupancy on a daily or nightly basis, or any part thereof, for a period of 30 or fewer consecutive days.

"Vacation rental" means a dwelling unit that is not an owner-occupied dwelling unit and contains 6 or fewer sleeping rooms that are available for rent or for hire for transient occupancy by guests. The term "guests" does not include members of the owner's household, as that term is defined in section 17-17-0270. The term "vacation rental" shall not include: (i) single-room occupancy buildings or bed-and-breakfast establishments, as those terms are defined in section 13-4-010; (ii) hotels, as that term is defined in section 4-208-010 of this code; (iii) a dwelling unit for which a tenant has a month-to-month rental agreement and the rental payments are paid on a monthly basis; or (iv) Corporate Housing. For purposes of this definition:

(1) "tenant" and "rental agreement" have the same meaning ascribed to those terms in section 5-12-030;

(2) "Corporate Housing" means a dwelling unit owned or leased by a business entity that is available for rent or for hire for transient occupancy solely by the business entity's officers, employees, family members of the officers or employees, consultants, vendors or contractors. "Family members" means an officer's or employee's (i) mother, father, spouse, brother or sister (including blood, step or half), son or daughter (including blood, step or half), father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, grandparents or grandchildren; (ii) court appointed legal guardian or a person for whom the employee or officer is a court appointed legal guardian; or (iii) domestic partner or the domestic partner's mother, father, brother or sister (including blood, step, or half), or son or daughter (including blood, step or half).

#### **4-207-020 License Required.**

No owner of a dwelling unit shall rent or lease the dwelling unit as a vacation rental without first having obtained a vacation rental license. A separate license is required for each dwelling unit used as a vacation rental. A licensee under this chapter shall not be required to obtain any other city license to conduct the activities described in this chapter.

The license shall be valid only to the person to whom it was issued and it shall not be subject to sale, assignment, or transfer, voluntary or involuntary, nor shall the license be valid for any premises other than that for which it was originally issued.

The license shall be displayed in a conspicuous place in the vacation rental.

#### **4-207-030 License Application Investigation.**

(a) An application for a license required pursuant to this chapter shall be made in conformity with the general requirements of Chapter 4-4 of the Municipal Code relating to applications for licenses. The application shall include the location of the vacation rental, the total number of sleeping rooms, a statement indicating ownership of the vacation rental, the name and

address of a local contact person, and other information that may be required by the department.

(b) The application shall include the name, address, and contact information for a local contact person and attached to the application shall be an affidavit from the local contact person attesting that the person (1) is designated for service of process; (2) is authorized by the owner to take remedial action and respond to any violation of this code; and (3) maintains a residence or office located in the city.

(c) If applicable, attached to each application shall be an affidavit executed by a duly authorized representative of the homeowners association or the board of directors which attests that: (1) the homeowners association or board of directors has approved the dwelling unit to be used as a vacation rental and specifically identifies all the other dwelling units approved to be used as vacation rentals; and (2) the bylaws are in compliance with subsection 4-207-060 (a)(6) of this chapter.

(d) As a condition of the license, the licensee shall keep all information current. Any change in required information shall be reported to the department within 30 days after the change.

(e) The building commissioner has the authority to mandate that an inspection of the vacation rental shall be undertaken at any time and in any manner, including third-party reviews, as provided for in rules and regulations promulgated by the building commissioner.

#### **4-207-040 License Fee.**

The fee for a vacation rental license shall be as set forth in Section 4-5-010.

#### **4-207-050 License renewal.**

All licenses issued under this chapter shall be renewed in accordance with Chapter 4-4 of this Code.

#### **4-207-060 License denial or revocation.**

(a) A license or a renewal of a license shall be denied or revoked for any of the following reasons:

(1) The applicant does not own the vacation rental;

(2) The applicant's license under this chapter has been revoked for cause within two years of the date of the application;

(3) A license issued under this chapter for a vacation rental for that dwelling unit has been revoked for cause within two years of the date of application;

(4) The applicant makes any false, misleading or fraudulent statement or misrepresents any fact in the license application, or uses any scheme or subterfuge for the purpose of evading any provision of this chapter.

(5) The applicant is a corporation, general partnership, limited partnership or limited liability company and has a partner, general partner, principal officer, managing member, or owner of the applicant who would not be eligible to receive a license under this section.

(6) Failure of the homeowners association or board of directors to adopt bylaws which:

(A) approve the use of the premises for vacation rentals;

(B) restrict the number of dwelling units that may be licensed as vacation rentals



- to 6 or less and specifically identifies those units;
- (C) authorize the homeowners association or the board of directors to act as the local contact person for the owner of the vacation rental; and
- (D) authorize access by city officials to the common areas.

(7) The applicant has violated any applicable federal, state or local law or regulation promulgated thereunder,

(b) No more than 6 dwelling units per building can be licensed as a vacation rental at same time.

#### **4-207-070 Insurance required.**

Prior to the issuance of any license under this chapter, each applicant shall furnish a certificate of insurance evidencing: (1) homeowner's fire, hazard and liability insurance; and (2) general commercial liability insurance with limits of not less than \$1,000,000.00 per occurrence, combined single limit, for bodily injury, personal injury, and property damage arising in any way from the issuance of the license or activities conducted pursuant to the license.

The licensee shall maintain the insurance required under this section in full force and effect for the duration of the licensed period.

#### **4-207-080 Standard of operation**

(a) No licensee shall: (1) rent or lease any vacation rental by the hour or for any period of fewer than 24 consecutive hours; (2) rent or lease any vacation rental more than once within any consecutive 24 hour period measured from the commencement of one rental to the commencement of the next; or (3) advertise an hourly rate or any other rate for a vacation rental based on a rental period of fewer than 24 consecutive hours.

(b) The licensee shall maintain current guest registration records which contain the following information about each guest: the guest's name, address, signature, and dates of accommodation. The registration records shall be kept on file for three years and made available for inspection by city officials during regular business hours or in the case of an emergency.

(c) No licensee shall permit any criminal activity or public nuisance to take place in the vacation rental. If a licensee knows or suspects that any criminal activity or public nuisance is taking place in the vacation rental, that person shall immediately notify and cooperate with the Chicago Police Department.

(d) The maximum number of guests in a vacation rental shall be no more than one person per 125 feet of floor area of the dwelling unit for which the license is issued. The occupancy limitations set forth in this subsection are absolute maximums, and the actual allowed capacity shall be based on the applicable provisions of the building code.

(e) Every licensee shall print its license number in every print advertisement for the vacation rental placed by or on behalf of the owner, and on every application for a building permit. If the licensee has a primary website in which the licensee advertises the vacation rental, the licensee shall also list the license number on such website.

(f) No licensee shall serve or otherwise provide alcohol to any guest.

(g) Each guest shall be provided soap, clean individual bath cloths and towels, and clean linen in good repair. Linens and bath cloths and towels shall be changed between guests.

(h) The vacation rental shall be cleaned and sanitized between guests and all food, beverages and alcohol shall be thrown out. All dishes, utensils, pots, pans and other cooking utensils shall be cleaned and sanitized between guests.

(i) The name and phone number of the local contact person and the vacation rental license shall be posted in a conspicuous place near the entrance of the vacation rental.

(j) An evacuation diagram identifying all means of egress from the vacation rental and the building in which it is located shall be posted in a conspicuous place on the inside entrance door of each vacation rental.

(k) Any licensee who provides food to the guests shall comply with all applicable food handling and licensing requirements of this code and board of health regulations, and shall be subject to inspection as therein provided.

#### **4-207-090 Regulations**

The commissioner shall have the authority to promulgate rules and regulations necessary to implement the requirements of this chapter.

#### **4-207-100 False Statements**

Any person who knowingly makes a false statement of material fact on any vacation rental application or affidavit required to be submitted with the application shall be subject to the provisions of Section 1-21-010 of the Municipal Code.

#### **4-207-110 Violations**

Any person who violates any provision of this chapter, or any rule or regulation promulgated hereunder, shall be subject to a fine of not less than \$500.00 nor more than \$1,000.00 per violation, or shall be subject to license suspension or revocation, or both. Each day that such violation exists shall constitute a separate and distinct offense.

All the vacation rental licenses located in a building are subject to revocation if the building contains more than 6 licensed vacation rentals.

In addition to any other fine or penalty provided for in this section, any person who operates a vacation rental without a license issued under this chapter may be subject to incarceration for a period not to exceed six months.

In addition to any fine or penalty imposed by this section, the corporation counsel may seek an injunction or other equitable relief in court of competent jurisdiction to stop any violation of this chapter.

**SECTION 3:** Chapter 4-210 of the Municipal Code of Chicago is hereby amended by adding the language underscored and by deleting the language struck through, as follows:

#### **4-210-010 Definitions.**

For purposes of this chapter:

*(omitted text is unaffected by this ordinance)*

"Bed-and-breakfast establishment" or "establishment" means any building or structure or portion thereof in which 11 or fewer sleeping rooms are available for rent or for hire for transient occupancy by guests an owner-occupied single-family residential building, an owner-occupied multiple-family dwelling building, or an owner-occupied condominium, townhouse or cooperative, in which 11 or fewer sleeping rooms are available for rent or for hire for transient occupancy by registered guests. The term "bed-and-breakfast establishment" does not include single-room occupancy buildings as that term is defined in Section 13-4-010. If the bed-and-breakfast establishment is a single-family residential building located on a lot that includes a principal house and an accessory building that was being used for residential purposes as of January 16, 2003, the accessory building shall be considered to be part of the establishment. The term "guests" does not include members of the owner's family within the meaning of the Chicago Zoning Ordinance; nor does it include persons who have signed a lease to use and occupy residential property unless the leased residential property is held out by its owner, or by any person acting on the owner's behalf, to be a bed-and-breakfast establishment.

*(omitted text is unaffected by this ordinance)*

#### **4-210-050 License issuance prohibited when.**

No license shall issue under this chapter unless the following requirements are met:

(1) The establishment is (A) an owner-occupied, single-family residential building; or (B) an owner-occupied multiple-family dwelling that does not exceed four stories in height and contains no more than 11 sleeping rooms; or (C) an owner-occupied condominium, townhouse or cooperative. Throughout the duration of any rental period, occupancy of the establishment by any person owning 25 percent or more of the interest in the establishment shall be a continuing requirement for maintaining a license under this chapter; provided, however, that it shall not be a violation of this requirement if the owner (i) is absent from the establishment overnight or for any longer period of time not to exceed 120 days within a 12-month period; or (ii) is on active military duty for any length of time; and (iii) appoints a designated agent or employee to manage, control and reside in the establishment during the owner's absence. For purposes of this subsection, if the establishment is a single-family residential building located on a lot that includes a principal house and an accessory building that was being used for residential purposes as of January 16, 2003, the accessory building shall be considered to be part of the establishment.

*(omitted text is unaffected by this ordinance)*

**SECTION 4:** Title 17 of the Municipal Code of Chicago is hereby amended by adding a new section 17-15-0307 and by inserting the language underscored, as follows:

#### **17-15-0307 Vacation rentals-nonconforming use.**

(a) Notwithstanding any other provision of this Zoning Ordinance, any vacation rental located in a RS3, RT3.5 or RT4 District shall be considered as a legal nonconforming use for purposes of this Zoning Ordinance if the Zoning Administrator determines that the vacation rental was in existence and operating for more than one year prior to the effective date of this 2010 ordinance. The owner of the vacation rental shall have the burden to prove that the vacation rental meets the qualifications of this section. Proof of existence and operation shall include payment of any hotel tax, or similar tax, if applicable, and any other evidence required by the Zoning Administrator which demonstrates the existence and operation of the vacation rental. The owner of any vacation rental seeking a determination under this section shall provide such proof no later than 90 days after the effective date of this 2010 ordinance.

(b) Notwithstanding subsection (a), any expansion of the vacation rental shall be considered a new use.

Nothing in this section shall be construed as authorizing the operation of a vacation rental without any license required by the Municipal Code. If an owner of a vacation rental fails to obtain a vacation rental license pursuant to Chapter 4-207 within 180 days after the effective date of this 2010 ordinance, the vacation rental shall no longer be deemed as a legal nonconforming use.

**17-2-0207 Use Table and Standards.**

USE GROUP		Zoning Districts								Use Standard	Parking Standard
Use Category		RS	RS	RS	RT	RT	RM	RM	RM		
Specific Use Type		1	2	3	3.5	4	4.5	5-5.5	6-6.5		

P = permitted by-right S = special use approval req'd PD = planned development approval req'd - = Not allowed

(omitted text is unaffected by this ordinance)

<b>P. Lodging</b>											
1.	Bed and Breakfast	-	-	-	-	P	P	P	P	§ 17-9-0103	§ 17-10-0207-S
2.	Vacation Rental	-	-	-	-	-	S	S	S		

(omitted text is unaffected by this ordinance)

**17-3-0207 Use Table and Standards.**

USE GROUP		Zoning Districts						Use Standard	Parking Standard
Use Category		B1	B2	B3	C1	C2	C3		
Specific Use Type									

P = permitted by-right S = special use approval required PD = planned development approval required - = Not allowed

(omitted text is unaffected by this ordinance)

<b>II. Lodging</b>									
1.	Bed and Breakfast	P	P	P	P	P	-	§ 17-9-0103	§ 17-10-0207-S
2.	Hotel/Motel	-	-	S	S	S	S		§ 17-10-0207-S
3.	Vacation Rental	P	P	P	P	P	-		

(omitted text is unaffected by this ordinance)

**17-4-0208 Use Table and Standards**

USE GROUP		Zoning Districts				Use Standard	Parking Standard
Use Category		DC	DX	DR	DS		

Specific Use Type						
P= permitted by-right S = special use approval required PD = planned development approval required - = Not allowed						

(omitted text is unaffected by this ordinance)

HH. Lodging						
1. Bed and Breakfast	P	P	P	P	§ 17-9-0103	§ 17-10-0208
2. Hotel/Motel	P	P	-	P		§ 17-10-0208
3. Vacation Rental	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>		

(omitted text is unaffected by this ordinance)

**17-17-0104-R Lodging.** Provision of *lodging* services on a temporary basis with incidental food, drink, and other sales and services intended for the convenience of guests. The following are *lodging* use types:

**1. Bed and Breakfast.**

An owner-occupied, detached house or an owner-occupied *dwelling unit* within a multi-unit residential building that does not exceed 4 stories in height and contains no more than 11 sleeping rooms or an owner-occupied condominium, townhouse or cooperative in which 11 or fewer sleeping rooms are available for rent on for hire for transient occupancy by registered guests. For purposes of this definition, the term "bed and breakfast" does not include single-room occupancy buildings. If the bed and breakfast is a detached house located on a lot that includes a principal house and an accessory building that was being used for residential purposes as of January 16, 2003, the accessory building that will be considered to be part of the establishment.

**2. Hotel/Motel.**

An establishment containing 42 7 or more guest rooms and in which short-term *lodging* is offered for compensation and which may or may not include the service of one or more meals to guests. Typical uses include hotels, motels and transient boarding houses.

**3. Vacation Rental**

A dwelling unit that is not owner-occupied and contains 6 or less sleeping rooms that are available for rent or for hire for transient occupancy by guests. The term "guests" does not include members of the owner's household. The term "vacation rental" shall not include: (i) single-room occupancy buildings or bed-and-breakfast establishments, as those terms are defined in section 13-4-010; (ii) hotels, as that term is defined in section 4-208-010 of this code; (iii) any dwelling unit for which a tenant has a month-to-month rental agreement, as term is defined in 5-12-030, and the rental payments are paid on a monthly basis; or (iv) Corporate Housing. For purposes of this definition, "Corporate Housing" has the same meaning ascribed that term in section 4-207-010.

**SECTION 5. Severability.** If any provision of this ordinance is held invalid, such provision shall be deemed excised from this ordinance and the invalidity thereof shall not affect any of the other provisions of this ordinance. If the application of any provision of this ordinance to any

person or circumstance is held invalid, it shall not affect the application of such provision to other persons or circumstances.

**SECTION 6:** This ordinance shall take on January 1, 2011.

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Edward M. Burke  
Alderman, 14<sup>th</sup> Ward

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Brendan Reilly  
Alderman, 42<sup>nd</sup> Ward

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Thomas Tunney  
Alderman, 44<sup>th</sup> Ward

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Vi Daley  
Alderman, 43<sup>rd</sup> Ward

---

Scott Waguespack  
Alderman, 32<sup>nd</sup> Ward

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Helen Shiller  
Alderman, 46<sup>th</sup> Ward

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Eugene Schuler  
Alderman, 47<sup>th</sup> Ward

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Chicago, IL

Attachment 2



# Vacation Rental Licensing in Chicago

Facts about operating Vacation Rental dwelling unit(s) (4-207). *Effective January 1, 2011.*

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## What is a "Vacation Rental"?

A "Vacation Rental" is a dwelling unit with up to six (6) sleeping rooms that are available for rent, or for hire, for transient occupancy by guests, and must **NOT** be owner-occupied.

A limit of six (6) dwelling units per building can be licensed as a vacation rental at the same time.

**APPLICATION & LICENSE FEE: \$500.00 PER DWELLING UNIT** (renewable every two years)

The Vacation Rental license does **NOT** include the following business activities:

- Single-Room Occupancy buildings
- Bed-and-Breakfast establishments
- Hotels
- A dwelling unit which a tenant has a month-to-month rental agreement
- Corporate Housing

## Zoning Requirements:

- The following zoning districts allow Vacation Rentals: B1, B2, B3, C1, and C2.
- The following zoning districts require a Zoning Special Use approval for Vacation Rentals: RM 4.5, RM 5-5.5, RM 6-6.5, DC, DX, DR, and DS.
- The following zoning districts require a Zoning Nonconforming Use approval for Vacation Rentals: RS 3, RT 3.5 and RT 4.

## The following documentation is required:

- Business entity registration documents (e.g. Art. of Inc., LLC Art. of Org., etc.); FEIN & IBT # (SSN for Sole Proprietors).
- Proof of ownership of the business property (i.e. Title, Deed or Executed Sales Contract).
- Floor plan of the dwelling unit.
- A completed Local Contact Person Affidavit (LCA), which attests that the listed local contact person:
  - 1) is designated for service of process;
  - 2) is authorized by the owner to take remedial action and respond to any violation(s); and
  - 3) maintains a residence or office located in the City.
- If applicable, a completed Homeowners Association Affidavit (HOA), executed by an authorized representative of the homeowners association or the board of directors, which attests that:
  - 1) the homeowners association or board of directors has approved the dwelling unit to be used as a vacation rental and specifically identifies all the other dwelling units approved to be used as vacation rentals; and
  - 2) the bylaws are in compliance with subsection 4-207-060 (a)(6) of the vacation rental ordinance.
- A certificate of insurance evidencing homeowner's fire, hazard and liability insurance, and general commercial liability insurance with limits of not less than \$1,000,000 per occurrence.
- Any City debt must be resolved prior to the issuance, or renewal, of any business license.

## INSPECTION:

A Department of Buildings onsite, or administrative, inspection will be performed based on the history of the building.

## TAXES:

On November 17, 2010, the Chicago City Council amended the Hotel Accommodations tax to eliminate the threshold of seven units per building in the definition of the term "hotel accommodation". The change will have the effect of subjecting all vacation rentals, as the term "vacation rentals" is defined in Code Chapter 4-202, to the city's 4.5% Hotel Accommodations Tax, regardless of how many such units are in a given building.



For more information visit [www.cityofchicago.org/bacp](http://www.cityofchicago.org/bacp), or call (312) 74-GOBIZ / 744-6249

CITY OF CHICAGO · DEPARTMENT OF BUSINESS AFFAIRS & CONSUMER PROTECTION · VACATION RENTAL FACT SHEET





### Standard of Operation:

- a) No licensee shall:
  1. rent or lease any vacation rental by the hour, or for any period of fewer than 24 consecutive hours;
  2. rent or lease any vacation rental more than once within any consecutive 24 hour period measured from the commencement of one rental to the commencement of the next;
  3. advertise an hourly rate, or any rate for a vacation rental based on a rental period of fewer than 24 consecutive hours.
- b) The licensee shall maintain current guest registration records (with each guest's name, address, signature, and dates of accommodation), which must be kept on file for three years and made available for inspection by City officials during regular business hours or in case of emergency.
- c) No licensee shall permit any criminal activity or public nuisance to take place in the vacation rental.
- d) The maximum number of guests in a vacation rental shall be no more than one person per 125 feet of floor area.
- e) Every licensee shall print its license number in every print, and online, advertising for the vacation rental placed by or on behalf of the owner, and on every application for a building permit. If the licensee has a website for the vacation rental, then the license number should be listed in the website.
- f) No licensee shall serve or otherwise provide alcohol to any guest.
- g) Each guest shall be provided soap, clean individual bath cloths and towels, and clean linen in good repair. Linens, bath cloths and towels must be changed between guests.
- h) The vacation rental shall be cleaned and sanitized between guests and all food, beverages and alcohol must be thrown out. All dishes, utensils, pots, pans and other cooking utensils shall be cleaned and sanitized between guests.
- i) The name and phone number of the local contact person and the vacation rental license shall be posted in a conspicuous place near the entrance of the vacation rental.
- j) An evacuation diagram identifying all means of egress from the vacation rental and the building in which it is located shall be posted in a conspicuous place on the inside entrance door of each vacation rental.
- k) Any licensee who provides food to the guests shall comply with all applicable food handling, licensing and inspection requirements.

### Reasons for license denial or revocation:

- The applicant does not own the vacation rental.
- The applicant's license has been revoked within two (2) years of the date of the application.
- A license issued for a vacation rental for that dwelling has been revoked within two (2) years of the date of the application.
- The applicant makes any false, misleading or fraudulent statement or misrepresents any fact in the license application.
- Failure of the homeowners association, or board of directors, to adopt bylaws which:
  - a) approve the use of the premises for vacation rentals;
  - b) restrict the number of dwelling units that may be licensed as vacation rentals to six (6) or less, and specifically identifies those units;
  - c) authorize the homeowners association, or the board of directors, to act as the local contact person for the owner of the vacation rental; and
  - d) authorize access by City officials to the common areas.
- The applicant has violated any applicable federal, state or local law or regulation.

### How do I apply?

In-Person at BACP's Business Assistance Center, 121 North LaSalle Street, Room 800.

- Application intake hours are 8:30 AM – 3:30 PM, Monday – Friday.
- An appointment is recommended, and can be made online, or by calling (312) 74-GOBIZ / 744-6249.



For more information visit [www.cityofchicago.org/bacp](http://www.cityofchicago.org/bacp), or call (312) 74-GOBIZ / 744-6249

CITY OF CHICAGO - DEPARTMENT OF BUSINESS AFFAIRS & CONSUMER PROTECTION - VACATION RENTAL FACT SHEET



Malibu, CA

Attachment 1

## Malibu Municipal Code

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[Title 3 REVENUE AND FINANCE](#)

**Chapter 3.24 TRANSIENT OCCUPANCY TAX**

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**3.24.010 Short title.**

This chapter shall be known as the "Uniform Transient Occupancy Tax Ordinance of the City of Malibu." The provisions of this chapter shall be construed as a restatement and continuation of Los Angeles County Ordinance 8607, adopted in 1964. (Prior code § 6400)

**3.24.020 Definitions.**

Except where the context otherwise requires, the definitions given in this section shall govern the construction of this chapter.

"Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, rental unit, dormitory, public or private club, mobilehome or house trailer at a fixed location, or other similar structure or portion thereof, and shall further include any trailer court, camp, park or lot where trailer spaces, or combinations of such spaces and trailers, including mobilehomes, are occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes.

"Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.

"Operator" means the person who is proprietor of the hotel, whether in the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

"Person" means any individual, firm, partnership, joint venture association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

"Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

"Tax Administrator" means the city manager or his or her designee.

"Transient" means any person who exercises occupancy or is entitled to occupancy for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person shall be deemed to be a transient until the period of thirty (30) days has expired. In the event that any person rents or leases a hotel room(s) for more than thirty (30) consecutive calendar days, the determination of transiency for purposes of applying this chapter shall be based on the time period of actual occupancy of the room by a natural person or persons and not the duration of the room(s) reservation, lease or rental agreement. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this chapter may be considered. (Prior code § 6401)

**3.24.030 Tax imposed.**

For the privilege of occupancy in any hotel each transient is subject to and shall pay a tax in the amount of twelve (12) percent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the tax administrator. (Prior code § 6402)

### **3.24.040 Exemptions.**

No tax shall be imposed upon:

- A. Any person as to whom, or any occupancy as to which, it is beyond the power of the city to impose the tax herein provided;
- B. Any federal or state of California officer or employee when on official business;
- C. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

No exemption shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the tax administrator. (Prior code § 6403)

### **3.24.050 Responsibility of operator.**

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded, except in the manner hereinafter provided. (Prior code § 6404)

### **3.24.060 Registration of hotel.**

Within thirty (30) days after the effective date of this chapter, or within thirty (30) days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register the hotel with the tax administrator and obtain a transient occupancy registration certificate to be at all times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:

- A. The name of the operator;
- B. The address of the hotel;
- C. The date upon which the certificate was issued;
- D. The following statement: "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance of the City of Malibu by registering with the Tax Administrator for the purpose of collecting from transients the transient occupancy tax and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in any unlawful manner, nor to operate a hotel without strictly complying with all applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this City. This certificate does not constitute a permit." (Prior code § 6405)

**3.24.070 Reporting and remitting.**

Each operator shall, on or before the last day of the month following the close of each calendar quarter or of such different reporting period as may be established by the tax administrator, make a return to the tax administrator, on forms provided by the tax administrator, of the total rents charged and received, the amount of tax collected for transient occupancies, and such other information as may be reasonably required. At the time the return is filed, the full amount of the tax collected shall be remitted to the tax administrator. The tax administrator may establish either shorter or longer reporting periods for any individual certificate holder or category of certificate holders if the tax administrator deems it necessary or desirable in order to insure collection of the tax or to increase the efficiency of its administration. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city until payment thereof is made to the tax administrator (Prior code § 6406)

**3.24.080 Penalties and interest.**

A. Original Delinquency. Any operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of ten (10) percent of the amount of the tax in addition to the amount of the tax.

B. Continued Delinquency. Any operator who fails to remit any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten (10) percent of the amount of the tax in addition to the amount of the tax and the ten (10) percent penalty first imposed.

C. Fraud. If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of twenty-five (25) percent of the amount of tax shall be added thereto in addition to the penalties stated in subsections A and B of this section.

D. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent per month for each month or portion of a month that the tax shall be delinquent on the amount of the tax, exclusive of penalties, from the date on which the tax first became delinquent until paid. The interest shall be computed on a monthly basis and shall not be subject to proration for any portion of a month.

E. Penalties Merged with Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be paid. (Prior code § 6407)

**3.24.090 Failure to collect and report tax determination of tax by tax administrator.**

If any operator shall fail or refuse to collect the tax and to make, within the time provided in this chapter, any report and remittance of the tax or any portion thereof required by this chapter, the tax administrator shall proceed in such manner as the tax administrator may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the tax administrator shall procure such facts and information as the tax administrator is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, the tax administrator shall proceed to determine and assess against such operator the tax, interest, and penalties provided for by this chapter. In the event such determination is made, the tax administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his or her last known address. Such operator may within ten (10) days after the serving or mailing of such notice make application in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five days

written notice in the manner prescribed in this chapter to the operator to show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing, the tax administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed in this chapter of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in Section 3.24.100. (Prior code § 6408)

### **3.24.100 Appeal.**

Any operator aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the council by filing a notice of appeal with the city clerk within fifteen (15) days of the serving or mailing of the determination of tax due. The council shall fix a time and place for hearing such appeal, and the city clerk shall give notice in writing to such operator at his or her last known place of address. The findings of the council shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice. (Prior code § 6409)

### **3.24.110 Records.**

It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as it may have been liable for the collection and payment of to the city, which records the tax administrator shall have the right to inspect at all reasonable times. (Prior code § 6410)

### **3.24.120 Refunds.**

A. Claim by Operator. An operator may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the tax administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

B. Claim by Transient. A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the city by filing a claim in the manner provided in Section 3.08.010, but only when the tax was paid by the transient directly to the tax administrator, or when the transient, having paid the tax to the operator, establishes to the satisfaction of the tax administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

C. Evidence. No refund shall be paid under the provisions of this section unless the claimant establishes his or her right thereto by written records showing entitlement thereto. (Ord. 162 §§ 3, 4, 1997; prior code § 6411)

### **3.24.130 Tax declared a debt—Action to collect.**

Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owed by the transient to the city. Any such tax collected by an operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city for the recovery of such amount. (Prior code § 6412)

**3.24.140 Penalty for violations.**

Any operator or other person who fails or refuses to register as required in this chapter, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the tax administrator, or who renders a false or fraudulent return or claim, or who fails or refuses to pay any tax, penalty or interest which is due and owing is guilty of a misdemeanor, and is punishable by a fine not exceeding one thousand dollars (\$1,000.00) or by not more than six months imprisonment in the county jail or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any provision of this chapter is committed, continued or permitted by such person and shall be punishable accordingly. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor and is punishable as aforesaid. (Prior code § 6413)

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View the [mobile version](#).

Malibu, CA

Attachment 2





City Council Meeting  
05-12-14

**Item  
6.B.**

## Council Agenda Report

**To:** Mayor Peak and the Honorable Members of the City Council

**Prepared by:** Reva Feldman, Assistant City Manager

**Approved by:** Jim Thorsen, City Manager

**Date prepared:** May 1, 2014

**Meeting date:** May 12, 2014

**Subject:** Short-term Residential Rental Subpoena

**RECOMMENDED ACTION:** Authorize the Mayor to issue subpoenas to websites advertising short-term residential rental properties located in the City of Malibu as well as to owners and operators suspected of renting such properties. The subpoenas will be used to investigate and obtain compliance with Malibu Municipal Code Chapter 3.24.

**FISCAL IMPACT:** The City currently collects approximately \$1 million in Transient Occupancy Tax (TOT) a year from hotels and motels. An additional \$225,000 is collected from the short-term rentals of private homes. However, after a thorough review of websites advertising short-term rentals of private homes in Malibu, the City believes that many private properties have not registered as short-term rentals and are not paying the tax owed. The City can use these subpoenas to investigate the nature of the problem and increase compliance with the City's ordinance, potentially leading to several hundred thousand dollars of additional general fund revenue.

**DISCUSSION:** Malibu Municipal Code (MMC) Chapter 3.24 authorizes the City to collect TOT when a hotel, motel or residential home is occupied for thirty consecutive calendar days or less. The tax rate is 12% of the amount charged. It also requires owners and operators of such properties to register their property with the City and remit TOT on a quarterly basis. Further, they are required to keep and preserve records for a period of three years, and the City may inspect the records upon request. If an owner or operator fails to remit TOT as required the City may impose interest and penalties on the amount owed.

The City has 6 properties registered as hotels or motels that remit TOT on a quarterly basis. The annual revenue received from the 6 properties is approximately \$1 million a year. The City's independent auditors performed an audit of the 6 properties in 2008 and is confident that these properties are accurately remitting TOT.

In 2009, the City began enforcing the collection of TOT on the short-term rental of private homes. Prior to 2009, the City did not enforce MMC Chapter 3.24 and collect TOT on the short-term rental of private homes even though it was authorized to do so. A short-term rental is defined in MMC Chapter 3.24 as "any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, rental unit, dormitory, public or private club, mobilehome or house trailer at a fixed location, or other similar structure or portion thereof, and shall further include any trailer court, camp, park or lot where trailer spaces, or combinations of such spaces and trailers, including mobilehomes, are occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes." Currently, there are 53 residential homes registered with the City that remit TOT on a regular basis. The annual revenue received from the private properties is approximately \$225,000 a year.

The City has worked to ensure that property owners in the City are aware of MMC Chapter 3.24 and that TOT must be paid on private short-term rentals. The City has repeatedly placed ads in local papers, sent direct mailings and regularly details the obligation in the City's quarterly newsletter that is delivered to all properties in the City. The City has also received dozens of complaints over the past two years regarding the short-term rentals of private homes and has attempted to follow up with each complaint to ensure proper collection of TOT. Despite the City's efforts to inform property owners about MMC Chapter 3.24 and its registration and remittance requirements, many properties still do not comply. This results in the potential loss of significant funds due to the City and is unfair to the owners and operators who collect and remit the TOT due.

The majority of short-term private rentals are advertised on the internet. There are dozens of vacation rental websites that advertise properties in Malibu for short-term rental. Information on the websites includes photos, reviews, rental rates and the general location of properties. Staff has attempted to identify all properties that are advertised for short-term rental in the City, however, additional information is needed to fairly and uniformly enforce MMC Chapter 3.24 such as the exact addresses of rental properties and the exact dates when properties have been rented. Approximately 100 to 300 individual private properties available for short-term rental are actively being advertised on the internet, which greatly exceeds the number of properties that have registered as required by MMC Chapter 3.24.

Staff recommends authorizing the Mayor to issue subpoenas as needed to investigate, and obtain, compliance with MMC Chapter 3.24. This includes serving subpoenas on (1) websites that have active listings for short-term rentals in Malibu, and (2) property owners or operators who are suspected of not paying the TOT due or who have not voluntarily produced the records needed by staff. The City will use these subpoenas to determine the extent of noncompliance with MMC Chapter 3.24 and the details of the TOT revenue that the City has not collected. It is anticipated that these subpoenas will

reveal significant TOT revenue that has not been collected. Without these subpoenas the City will be severely limited in its ability to investigate, and obtain, compliance with MMC Chapter 3.24.

The City has identified the following websites that are advertising short-term private rentals in Malibu:

- 4malibu.com
- adventurepads.com
- Airbnb.com
- alwaysonvacation.com
- bbonline.com
- beachhomes.net
- beachhouse.com
- beach-house rentals.com
- bestmalibuhouse.com
- booking.com
- boutique-homes.com
- bringfido.com
- carefreelifestyle.com
- choice1.com
- craigslist.org
- cyberrentals.com
- dreamvr.com
- dwellable.com
- exitrealitybythesea.com
- exploremalibu.com
- flipkey.com
- forrent.com
- gogobot.com
- greatrentals.com
- homeaway.com
- homes.com
- invacationrentals.com
- itrip.net
- jettiving.com
- jetluxuryresorts.com
- livingmalibu.com
- malibu.flipkey.com
- malibu.patch.com
- malibu5.com
- malibubeachhouseforrent.com

- malibubeachrentalproperties.com
- maibuestatesrentals.com
- malibucoastfrontrental.com
- maliburentals.com
- malibu-rentals.com
- maliburentalsnow.webs.com
- malburentalsonline.com
- maliburents.com
- maliburoadbeachhouse.com
- paradisehunter.com
- priveluxurentals.com
- rentbits.com
- roomorama.com
- scenicrentals.com
- selective retreats.com
- stayathesea.com
- surfbreakrentals.com
- tripadvisor.com
- vacationhomerentals.com
- vacationrentaldirect.com
- vacationrentalpeople.com
- vacationrentals.beachlives.com
- vacationrentals.com
- vacationrentals411.com
- vacationrentalsinmalibu.com
- vacationrentseekers.com
- vamoose.com
- villamalibuliving.com
- vrbo.com

Upon consensus by the Council, subpoenas similar to the attached will be served as needed to investigate and obtain compliance with MMC Chapter 3.24.

**ATTACHMENTS:** Malibu CMI Subppena

New York City, NY

Attachment 1

#### Sec. 4. Definitions.

Certain words and terms when used in this chapter, unless the context or subject matter requires otherwise, are defined as follows:

1. Wherever the word or words "occupied," "is occupied," "used" or "is used" appear, such word or words shall be construed as if followed by the words "or is intended, arranged or designed to be used or occupied."
2. The word "shall" is always mandatory.
3. The term "department" shall mean the department, bureau, division or other agency charged with the enforcement of this chapter.
4. A "dwelling" is any building or structure or portion thereof which is occupied in whole or in part as the home, residence or sleeping place of one or more human beings.
5. A "family" is either a person occupying a dwelling and maintaining a household, with not more than four boarders, roomers or lodgers, or two or more persons occupying a dwelling, living together and maintaining a common household, with not more than four boarders, roomers or lodgers. A "boarder," "roomer" or "lodger" residing with a family shall mean a person living within the household who pays a consideration for such residence and does not occupy such space within the household as an incident of employment therein.
6. A "private dwelling" is any building or structure designed and occupied exclusively for residence purposes by not more than two families.

A building designed for and occupied exclusively by one family is a "single-family private dwelling. "

A building designed for and occupied exclusively by two families is a "two-family private dwelling. "

Private dwellings shall also be deemed to include a series of one-family or two-family dwelling units each of which faces or is accessible to a legal street or public thoroughfare provided that each such dwelling unit is equipped as a separate dwelling unit with all essential services, and also provided that each such unit is arranged so that it may be approved as a legal one-family or two-family dwelling.

7. A "multiple dwelling" is a dwelling which is either rented, leased, let or hired out, to be occupied, or is occupied as the residence or home of three or more families living independently of each other. On and after July first, nineteen hundred fifty-five, a "multiple dwelling" shall also include residential quarters for members or personnel of any hospital staff which are not located in any building

used primarily for hospital use provided, however, that any building which was erected, altered or converted prior to July first, nineteen hundred fifty-five, to be occupied by such members or personnel or is so occupied on such date shall not be subject to the requirements of this chapter only so long as it continues to be so occupied provided there are local laws applicable to such building and such building is in compliance with such local laws. A "multiple dwelling" shall not be deemed to include a hospital, convent, monastery, asylum or public institution, or a fireproof building used wholly for commercial purposes except for not more than one janitor's apartment and not more than one penthouse occupied by not more than two families. For the purposes of this chapter "multiple dwellings" are divided into two classes: "class A" and "class B."

8. a. A "class A" multiple dwelling is a multiple dwelling which is occupied, as a rule, for permanent residence purposes. This class shall include tenements, flat houses, maisonette apartments, apartment houses, apartment hotels, bachelor apartments, studio apartments, duplex apartments, kitchenette apartments, garden-type maisonette dwelling projects, and all other multiple dwellings except class B multiple dwellings.
- b. A "garden-type maisonette dwelling project" is a series of attached, detached or semi-detached dwelling units which are provided as a group collectively with all essential services such as, but not limited to, water supply and house sewers, and which units are located on a site or plot not less than twenty thousand square feet in area under common ownership and erected under plans filed with the department on or after April eighteenth, nineteen hundred fifty-four, and which units together and in their aggregate are arranged or designed to provide three or more apartments.
9. A "class B" multiple dwelling is a multiple dwelling which is occupied, as a rule transiently, as the more or less temporary abode of individuals or families who are lodged with or without meals. This class shall include hotels, lodging houses, rooming houses, boarding houses, boarding schools, furnished room houses, lodgings, club houses, college and school dormitories and dwellings designed as private dwellings but occupied by one or two families with five or more transient boarders, roomers or lodgers in one household.
10. A "converted dwelling" is a dwelling (a) erected before April eighteenth, nineteen hundred twenty-nine, to be occupied by one or two families living independently of each other and subsequently occupied as a multiple dwelling, or (b) a dwelling three stories or less in height erected after April eighteenth, nineteen hundred twenty-nine, to be occupied by one or two families living independently of each other and subsequently occupied by not more than three families in all, with a maximum occupancy of two families on each floor in a two story building and one family on each floor in a three story building, in compliance with the provisions of article six of this chapter, including section

one hundred seventy-a of said article. A converted dwelling occupied as a class A multiple dwelling is a class A converted dwelling; every other converted dwelling is a class B converted dwelling.

11. A "tenement" is any building or structure or any portion thereof, erected before April eighteenth, nineteen hundred twenty-nine, which is occupied, wholly or in part, as the residence of three families or more living independently of each other and doing their cooking upon the premises, and includes apartment houses, flat houses and all other houses so erected and occupied, except that a tenement shall not be deemed to include any converted dwelling. An "old-law tenement" is a tenement existing before April twelfth, nineteen hundred one, and recorded as such in the department before April eighteenth, nineteen hundred twenty-nine, except that it shall not be deemed to include any converted dwelling.
12. A "hotel" is an inn having thirty or more sleeping rooms.
13. A "rooming house" or a "furnished room house" is a multiple dwelling, other than a hotel, having less than thirty sleeping rooms and in which persons either individually or as families are housed for hire or otherwise with or without meals. An inn with less than thirty sleeping rooms is a rooming house.
14. A "lodging house" is a multiple dwelling, other than a hotel, a rooming house or a furnished room house, in which persons are housed for hire for a single night, or for less than a week at one time, or any part of which is let for any person to sleep in for any term less than a week.
15. An "apartment" is that part of a multiple dwelling consisting of one or more rooms containing at least one bathroom and arranged to be occupied by the members of a family, which room or rooms are separated and set apart from all other rooms within a multiple dwelling.
16. "Single room occupancy" is the occupancy by one or two persons of a single room, or of two or more rooms which are joined together, separated from all other rooms within an apartment in a multiple dwelling, so that the occupant or occupants thereof reside separately and independently of the other occupant or occupants of the same apartment. When a class A multiple dwelling is used wholly or in part for single room occupancy, it remains a class A multiple dwelling.
17. A "public hall" is a hall, corridor or passageway within a building but outside of all apartments and suites of private rooms. A "public vestibule" is a corridor, not within an apartment or suite of private rooms, providing access to a stair or elevator and not wider than seven feet nor longer than twice the width of the stair or elevator shafts opening upon it. A "public room" or "public part" of a dwelling is a space used in common by the occupants of two or more apartments or rooms, or by persons who are not tenants, or exclusively for mechanical equipment of such dwelling or for storage purposes.



18. A "living room" is a room which is not a public hall, public vestibule, public room or other public part of a dwelling. Every room used for sleeping purposes shall be deemed a living room. Dining bays and dinettes fifty-five square feet or less in floor area, foyers, water-closet compartments, bathrooms, cooking spaces less than fifty-nine square feet in area, and halls, corridors and passageways entirely within an apartment or suite of rooms shall not be deemed living rooms. "Floor space" shall mean the clear area of the floor contained within the partitions or walls enclosing any room, space, foyer, hall or passageways of any dwelling.
19. A "dining bay," "dining recess" or "dinette" is a recess used for dining purposes off a living room, foyer or kitchen.
20. A "foyer" is a space within an apartment or suite of rooms used as an entrance hall directly from a public hall.
21. A "dormitory" in a lodging house is any place used for sleeping purposes. A "cubicle" is a small partially enclosed sleeping space within a dormitory with or without a window to the outer air.
22. "Premises" shall mean land and improvements or appurtenances or any part thereof.
23. "Structure" shall mean a building or construction of any kind.
24. "Alteration," as applied to a building or structure, shall mean any change or rearrangement in the structural parts or in the egress facilities of any such building or structure, or any enlargement thereof, whether by extension on any side or by any increase in height, or the moving of such building or structure from one location or position to another.
25. A "fireproof multiple dwelling" is one in which the walls and other structural members are of incombustible materials or assemblies meeting all of the requirements of the building code and with standard fire-resistive ratings of not less than one of the following sets of requirements:
  - a. For any multiple dwelling more than one hundred feet in height, four hours for fire walls, party walls, piers, columns, interior structural members which carry walls, girders carrying columns, and for exterior walls other than panel walls; three hours for other girders, fire partitions, floors including their beams and girders, beams, roofs, floor fillings, and stairway enclosures; and two hours for exterior panel walls.
  - b. For any multiple dwelling one hundred feet or less in height, the provisions of preceding paragraph a and shall apply, except that the minimum requirements shall be three hours for exterior walls other than panel walls, which shall be two hours; two hours for protection of interior columns; one and one-half hours for roofs and for floors and beams; provided, however, that for a multiple dwelling three stories or less in

height, the requirement for all floors and the roof shall be one hour.

26. The term "fireproof," as applied to a part or parts of a building, means such part or parts are made of incombustible materials with standard fire-resistive ratings not less than those required for the corresponding part or parts of a fireproof dwelling.
27. A "non-fireproof dwelling" is one which does not meet the requirements for a fireproof dwelling.
28. A "frame dwelling" is a dwelling of which the exterior walls or any structural parts of such walls are of wood. A dwelling which would not otherwise be a frame dwelling shall not be deemed a frame dwelling by reason of the existence on such dwelling of frame oriel, bay or dormer windows, frame porches not more than one story in height, or frame extensions not more than one story in height and fifty-nine square feet in area if such windows, porches or extensions were erected prior to April thirteenth, nineteen hundred forty.
29. The term "fire-retarded," as applied to a part or parts of a building, means such part or parts are either covered with metal lath plastered with two or more coats of mortar or otherwise protected against fire in a manner approved by the department with materials of standard fire-resistive ratings of at least one hour. Fireproofing shall always be accepted as meeting any requirement for fire-retarding.
30. "Fire-stopping" means the closing of all concealed draft openings to form an effectual fire barrier at floors, ceilings and roofs with brick, concrete, gypsum, asbestos, mineral wool, rock wool, metal lath with cement or gypsum plaster, or other approved incombustible materials.
31. A "lot" is a parcel or plot of ground which is or may be occupied wholly or in part by a dwelling, including the spaces occupied by accessory or other structures and any open or unoccupied spaces thereon, but not including any part of an abutting public street or thoroughfare.
  - a. A "corner lot" is a lot of which at least two adjacent sides abut for their full length upon streets or public places not less than forty feet in width. That portion of a corner lot in excess of one hundred feet from any street on which the lot abuts shall be considered an interior lot.

An "interior lot" is a lot which is neither a corner lot nor a through lot.
  - b. The "front" of a lot is that boundary line which abuts on the street, or, if there be more than one street abutting, on the street designated by the owner. The "rear" of a lot is the side opposite the front.
  - c. The "depth" of a lot is the distance from the front of the lot to the extreme rear line of the lot. In the case of an irregular-shaped lot the mean depth shall be

taken.

- d. A "through lot" is a lot running through from street to street whose front and rear lines abut for their entire lengths upon streets or open public places; provided, however, that when either of said lines exceeds the other in length by more than twenty per centum, that part of the lot contiguous to the excess length of the longer line shall be deemed an interior lot. The department may designate which part of the longer line is the excess in length and make any reasonable interpretation of the part of the lot to be regarded as contiguous to such excess.
  - e. Lots or portions of lots shall be deemed "back to back" when they are on opposite sides of the same part of a rear line common to both and the opposite street lines on which the lots front are parallel with each other or make an angle with each other of not more than forty-five degrees.
32. A "rear yard" is an open space on the same lot with a dwelling between the extreme rear line of the lot and the extreme rear wall of the dwelling. A "side yard" is a continuous open space on the same lot with a dwelling between the wall of a dwelling and a line of the lot from the street to a rear yard or rear line of a lot. A "court" is an open space other than a side or rear yard, on the same lot as a dwelling. A court not extending to the street or rear yard is an "inner court". A court extending to the street or rear yard is an "outer court".
- 32a "A rear yard equivalent" is an open area which may be required on a through lot as an alternative to a required rear yard.
33. The "curb level", for the purpose of measuring the height of any portion of a building, is the level of the curb at the center of the front of the building; except that where a building faces on more than one street, the curb level is the average of the levels of the curbs at the center of each front. Where no curb elevation has been established the average elevation of the final grade adjoining all exterior walls of a building, calculated from grade elevations taken at intervals of ten feet around the exterior walls of the building, shall be considered the curb level, unless the city engineer shall establish such curb level or its equivalent.
34. A "street wall" of a building, at any level, is the wall of the building nearest to a street line abutting the property.
35. a. The "height" of a dwelling is the vertical distance from the curb level to the level of the highest point of the roof beams; except that, in the case of pitched roofs, it is the vertical distance from the curb level to the mean height level of the gable or roof above the vertical street wall. When no roof beams exist or when there are structures wholly or partly above the roof, the height shall, except as otherwise expressly provided, be measured from the curb level to

the level of the highest point of any such structure; except that where every part of the building is set back more than twenty-five feet from a street line, the height shall be measured from the average grade elevation calculated from the final grade elevations taken at intervals of ten feet around the exterior walls of the building.

- b. Except as otherwise provided in section two hundred eleven, the following superstructure shall not be considered in measuring the height of a dwelling; parapet walls or guard railings, other superstructures twelve feet or less in height and occupying fifteen per centum or less of the area of the roof, elevator enclosures thirty feet or less in height used solely for elevator purposes, enclosures fifty feet or less in height used solely for tanks, cooling towers or other mechanical equipment; and, when approved by the department, pergolas, spires, chimneys, other ornamental treatments, roof gardens and playgrounds.
- c. When on the main roof of any fireproof multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, in which one or more passenger elevators are operated, a penthouse dwelling is erected the height of which does not exceed twelve feet and the walls of which are set back as provided in this paragraph, the height of such multiple dwelling shall be measured as though no such penthouse had been erected thereon. Such penthouse walls shall be set back from the outer face of the front parapet wall at least five feet, from the outer face of the yard parapet wall at least ten feet, and from the inner face of every other parapet wall at least three feet; except that the setback so required from any parapet wall facing any court or yard or recess therefrom but not facing any street may be reduced one-third for each ten per centum by which the area of such court or yard exceeds the required minimum area thereof at the highest level of such parapet wall, and the setback so required from any parapet wall facing any street may be reduced one foot for each foot that such parapet wall is set back from the building line established by law at the highest level of such parapet wall, provided that in the opinion of the department safe and sufficient passage is provided to and from every part of the main roof. Any penthouse wall which may be flush with the inner face of any parapet wall may be flush with the outer face thereof.
- d. If a rear multiple dwelling is erected after April eighteenth, nineteen hundred twenty-nine, on the same lot as a front multiple dwelling, and the depth of the yard of the front multiple dwelling is more than sixty feet and the lowest point of such yard is below the curb level and below the floor of a cellar of the front multiple dwelling or of the lowest story thereof if there is no cellar, the height of the rear multiple dwelling shall be measured from such lowest point instead of from the curb level.

36. A "story" is a space between the level of one finished floor and the level of the next higher finished floor, or, if the top story, of the space between the level of the highest finished floor and the top of the highest roof beams, or, if the first story, of the space between the level of the finished floor and the finished ceiling immediately above. For the purpose of measuring height by stories in multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine, one additional story shall be added for each twelve feet or fraction thereof that the first story exceeds fifteen feet in height, and for each twelve feet or fraction thereof that any story above the first story exceeds twelve feet in height.
37. A "cellar" in a dwelling is an enclosed space having more than one-half of its height below the curb level; except that where every part of the building is set back more than twenty-five feet from a street line, the height shall be measured from the adjoining grade elevations calculated from final grade elevations taken at intervals of ten feet around the exterior walls of the building. A cellar shall not be counted as a story.
38. A "basement" is a story partly below the curb level but having at least one-half of its height above the curb level; except that where every part of the building is set back more than twenty-five feet from a street line, the height shall be measured from the adjoining grade elevations calculated from final grade elevations taken at intervals of ten feet around the exterior walls of the building. A basement shall be counted as a story in determining height, except as provided in paragraph e of subdivision six of section one hundred two.
39. A "section" of a multiple dwelling is a part thereof, other than an apartment or suite of rooms, separated as a unit from the rest of such dwelling by fireproof construction.
40. A "shaft" is an enclosed space extending through one or more stories of a building connecting a series of openings therein, or any story or stories and the roof, and includes exterior and interior shafts whether for air, light, elevator, dumbwaiter or any other purpose.
41. A "stair" is a flight or flights of steps together with any landings and parts of public halls through which it is necessary to pass in going from one level thereof to another.
42. a. A "fire-tower" is a fireproof stair, enclosed in fireproof walls, without access to the building from which it affords egress other than by a fireproof self-closing door opening on a communicating balcony or other outside platform at each floor level.
- b. A "fire-stair" is a fireproof stair, enclosed in fireproof walls, within the body of the building which it serves, to which access may be had only through self-closing fireproof doors.
- c. A "fire-escape" is a combination of outside balconies

and stairs providing an unobstructed means of egress from rooms or spaces in a building.

- d. A "panel wall" is a non-bearing wall in skeleton construction erected between columns or piers and wholly supported at each story.
43. Window dimensions shall always be taken between stop-beads or, if there are no stop-beads, between the sides, head and sill of the sash opening.
44. The term "owner" shall mean and include the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent, or any other person, firm or corporation, directly or indirectly in control of a dwelling. Whenever a multiple dwelling shall have been declared a public nuisance to any extent pursuant to paragraph b of subdivision one of section three hundred nine of this chapter and such declaration shall have been filed as therein provided, the term "owner" shall be deemed to include, in addition to those mentioned hereinabove, all the officers, directors and persons having an interest in more than ten per cent of the issued and outstanding stock of the owner as herein defined, as holder or beneficial owner thereof, if such owner be a corporation other than a banking organization as defined in section two of the banking law, a national banking association, a federal savings and loan association, The Mortgage Facilities Corporation, Savings Banks Life Insurance Fund, The Savings Banks Retirement System, an authorized insurer as defined in section one hundred seven of the insurance law, or a trust company or other corporation organized under the laws of this state all the capital stock of which is owned by at least twenty savings banks or a subsidiary corporation all of the capital stock of which is owned by such trust company or other corporation.

New York City, NY

Attachment 2



# Airbnb in the city

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From the Office of:  
New York State Attorney General  
Eric T. Schneiderman

A white silhouette of the New York City skyline is positioned at the bottom of the page, featuring various skyscrapers and the Empire State Building on the right.

October 2014



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This report was prepared by the Office of the Attorney General of the  
State of New York's Research Department and Internet Bureau.

# INTRODUCTION

The rapid rise of short-term rental platforms like Airbnb have dramatically expanded the use of traditional apartments as transient hotel rooms—sparking a public debate in New York and in communities worldwide about the real-world consequences of this online marketplace.

Where supporters of Airbnb and other rental sites see a catalyst for entrepreneurship, critics see a threat to the safety, affordability, and residential character of local communities. Are the new platforms fueling a black market for unsafe hotels? By bidding up the price of apartments in popular areas, do short-term rentals make metropolitan areas like New York City less affordable? Is the influx of out-of-town visitors upsetting the quiet of longstanding residential neighborhoods?

Until now, the discourse has centered more on opinions and anecdotes than facts. This report seeks to bridge the gulf between rhetoric and reality. It offers the first exploration of the data on how users in New York City, one of Airbnb's most important markets, utilize the most successful online lodging rental platform. More broadly, the report endeavors to use quantitative data to inform an ongoing debate about how we embrace emerging, disruptive technologies, while protecting the safety and well-being of our citizens.

By analyzing Airbnb bookings for "private" stays,<sup>1</sup> this report presents a snapshot of short-term rentals in New York City from January 1, 2010 through June 2, 2014 (the "Review Period"). Among the key findings:

**Short-Term Rentals Experienced Explosive Growth.** Private short-term bookings in New York City on Airbnb increased sharply during the Review Period, registering more than a tenfold increase. The associated revenue also spiked, nearly doubling each year. This year, revenue to Airbnb and its hosts from private short-term rentals in New York City is expected to exceed \$282 million.

**Most Short-Term Rentals Booked in New York Violated the Law.** State and local laws in New York—including the Multiple Dwelling Law and the New York City Administrative Code—prohibit certain short-term rentals. During the Review Period, 72 percent of units used as private short-term rentals on Airbnb appeared to violate these laws.<sup>2</sup>

**Commercial Users Accounted for a Disproportionate Share of Private Short-Term Rentals by Volume and Revenue.** Ninety-four percent of Airbnb hosts offered at most two unique units during the Review Period. But the remaining six percent of hosts dominated the platform during that period, offering up to hundreds of unique units, accepting 36 percent of private short-term bookings, and receiving \$168 million, 37 percent of all host revenue. This report refers to these hosts as "Commercial Users."

<sup>1</sup> Airbnb hosts can offer a "shared room," where the host remains present during the stay, an "entire home/apartment," where the host is not present, or a "private room," where the host may or may not remain present during the stay. This report and its source data address only the last two categories, which, when combined, are labeled "private" stays, rentals, or reservations in the report.

<sup>2</sup> By assuming that all reservations listed as a "Private Room" complied with these laws, the analysis understates the degree to which rentals on Airbnb may have violated the law. Specifically, a "Private Room" rental for less than 30 days is legal only where a permanent resident was present during the stay.

**Top Commercial Users Employed Rental Platforms to Run Multimillion-Dollar Short-Term Rental Businesses.** Well over 100 Commercial Users each controlled 10 or more unique Airbnb units during the Review Period. Together, these hosts accepted 47,103 private short-term reservations and earned \$59.4 million in revenue. The highest-earning operation administered 272 unique Airbnb listings, booked 3,024 reservations, and received \$6.8 million in revenue during the Review Period. Each of the top 12 New York City operations on Airbnb during that period earned revenue exceeding \$1 million.

**Private Short-Term Rentals Displaced Long-Term Housing in Thousands of Apartments.** In 2013, more than 4,600 units were booked as short-term rentals through Airbnb for three months of the year or more. Of these, nearly 2,000 units were booked as short-term rentals for a cumulative total of half the year or more—rendering them largely unavailable for use by long-term residents.<sup>3</sup> Notably, the share of revenue to Airbnb and its hosts from units booked as private short-term rentals for more than half the year increased steadily, accounting for 38 percent of each figure by 2013.

**Numerous Short-Term Rental Units Appeared to Serve as Illegal Hostels.** New York law does not permit commercial enterprises to operate hostels, where multiple, unrelated guests share tight quarters. In 2013, approximately 200 units in New York City were booked as private short-term rentals for more than 365 nights during the year. This indicates that multiple transients shared the same listing on the same night, as they would in an illegal hostel. The 10 most-rented units for private short-term rentals were each booked for an average of about 1,900 nights in 2013, with the top listing accepting 13 reservations on an average night.

**Gentrified or Rapidly Gentrifying Neighborhoods Primarily in Manhattan Accounted for the Vast Majority of Revenue from Private Short-Term Rentals in New York City.** Bookings in just three Community Districts in Manhattan—the Lower East Side/Chinatown, Chelsea/Hell's Kitchen, and Greenwich Village/SoHo—accounted for approximately \$187 million in revenue to hosts, or more than 40 percent of private stay revenue to hosts during the Review Period. By contrast, all the reservations in three boroughs (Queens, Staten Island, and the Bronx) brought hosts revenue of \$12 million—less than three percent of the New York City total.

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<sup>3</sup> The actual number of apartments that shifted from long- to short-term housing could be much higher. This analysis covers paid Airbnb bookings only, omitting short-term rentals simultaneously offered on other platforms. This analysis also excludes nights when the apartments remain vacant between bookings.

# DATA & TERMINOLOGY

In late 2013, the Office of the Attorney General of the State of New York ("NYAG") launched an investigation of users of web platforms like Airbnb who run large-scale enterprises in violation of fire safety, zoning, tax, and other applicable laws. Appendix A provides a brief overview of several applicable laws. In particular, the Multiple Dwelling Law (the "MDL"), as amended in 2010, prohibits rentals in "Class A" buildings—a category encompassing most residential apartment buildings in New York City—for stays of less than 30 days. This prohibition confronts the fire and safety risks associated with hotels and other transient accommodations, as detailed in Appendix B.

On May 14, 2014, NYAG served Airbnb with a subpoena for detailed information about rental transactions on its platform. Shortly thereafter, and pursuant to an agreement dated May 20, 2014, Airbnb shared data with NYAG reflecting certain rental transactions in an anonymized format (the "Data").

In particular, Airbnb produced Data on 497,322 transactions (the "Reviewed Transactions") for stays between January 1, 2010 and June 2, 2014 (the "Review Period") that involved:

(1) A private stay, i.e. where the host listed an "entire home/apartment" or a "private room" for rent;

and

(2) One of the following:

- a. A rental transaction for a stay in New York City of less than 30 days; or
- b. A rental transaction for a stay in a unit in New York City of between 30 and 180 days that did not qualify for the *de minimis* exception for hotel room occupancy taxes (i.e., where a unit is booked for only up to 14 days or at most three times in a given year).

While private stays constitute the bulk of New York City reservations on Airbnb, the company declined to disclose the number of transactions not meeting the review criteria. It is therefore unclear how many transactions are excluded from the Data. As above, this report uses the word "private" (often paired with "booking," "reservation," "stay," or "short-term rental") as shorthand to distinguish the Reviewed Transactions (involving rentals for an "entire home/apartment" or a "private room") from other Airbnb transactions, particularly those involving a "shared room."

Airbnb anonymized key details of the Reviewed Transactions, replacing user names and unit numbers with unique ID codes. When analyzing the transactions, this analysis assumes the accuracy and uniqueness of Airbnb's designations.

NYAG also conducted a second-level analysis of the Reviewed Transactions using New York City's Geosupport Desktop Edition. By geo-locating the building addresses associated with the 35,354 unique units in the Data, NYAG identified the unique Borough, Block, and Lot ("BBL") identification number for all but 3,138 unique units. The BBL numbers allowed NYAG to search for the units in the Primary Land Use

Tax Lot Output ("PLUTO") database, which identifies the type of building for zoning purposes. By necessity, NYAG relied on the accuracy of this database.

NYAG sought and obtained this Data in connection with potential enforcement actions involving the Reviewed Transactions. The information and analyses contained in this report, however, are provided solely to aid the public discourse. Pursuant to the terms of its agreement with Airbnb, dated May 20, 2014, NYAG may publicly disclose its analyses of the Data (such as those contained in this report). The underlying Data may not be disclosed.

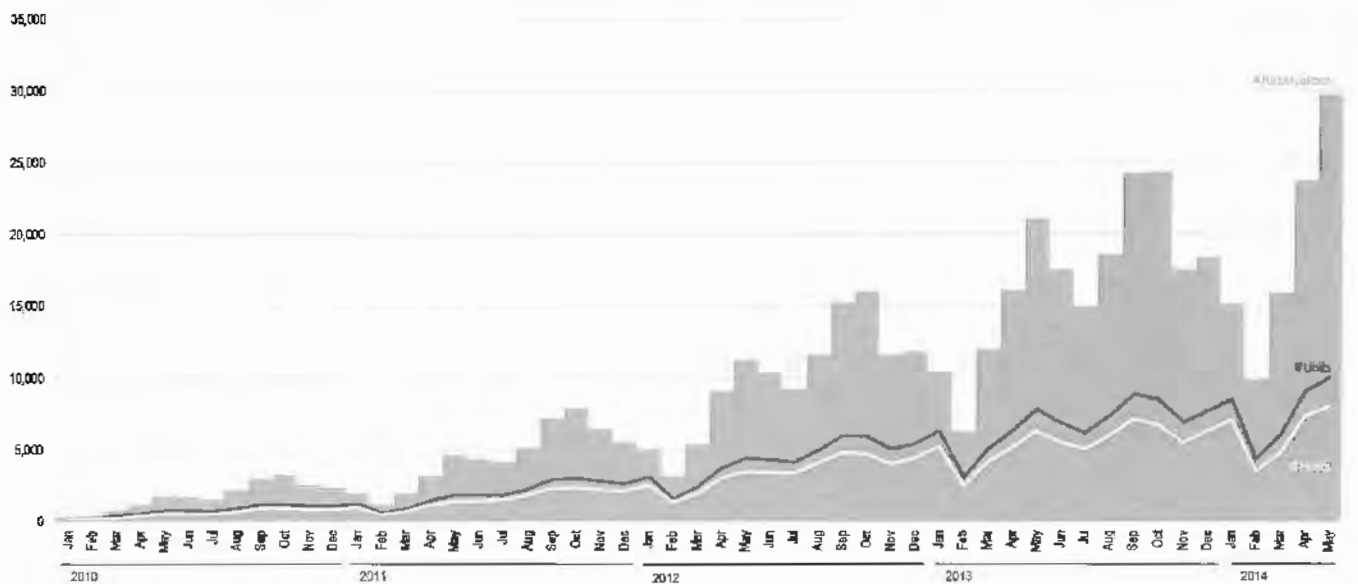
# GROWTH IN PRIVATE SHORT-TERM RENTALS

## Private Short-Term Rentals in New York City have Grown at a Staggering Pace.

During the Review Period, the number of unique units booked for private short-term rentals through Airbnb has exploded, rising from 2,652 units in 2010 to 16,483 in just the first five months of 2014. Private bookings in New York City saw a nearly twelvefold spike, rising from 20,808 in 2010 to an estimated 243,019 in 2014.<sup>4</sup> As with traditional hotel rooms, the short-term rental market varies seasonally. The chart below (Figure 1) shows that private bookings on Airbnb were on an upward trajectory throughout the Review Period, as measured by number of hosts, unique units, and total reservations.

**Figure 1:**  
**Monthly Growth in Private Short-Term Rentals on Airbnb**

(Source: Airbnb Data, 2010-2014)

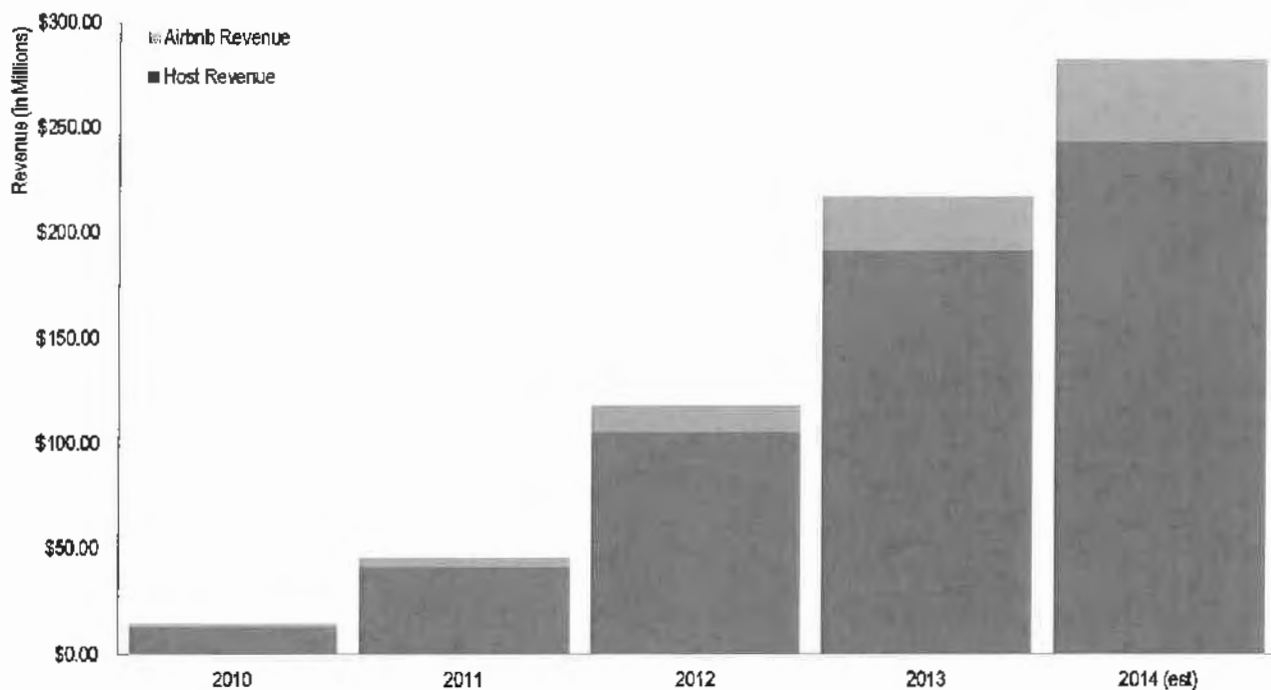


<sup>4</sup> For illustrative purposes, NYAG estimated 2014 year-end totals by assuming that the average monthly performance experienced in the first five months of the year in the relevant category would continue throughout the year. This is a rough estimate, which does not account for seasonal or other factors. For example, the estimation method makes no adjustment for the seasonal peak seen in August and September of previous years.

**Private Short-Term Rentals in New York City Generated Over \$500 million in Revenue in Less than Five Years.** As reflected in Figure 2 below, between the start of 2010 and the end of 2013, revenue to Airbnb and its hosts from private short-term rentals in New York City doubled almost every year, with revenue in 2014 estimated to exceed \$282 million. During the Review Period (January 1, 2010 through June 2, 2014), transaction fees associated with the Reviewed Transactions resulted in direct revenue to Airbnb of about \$61 million.<sup>5</sup>

**Figure 2:**  
**Revenue from Airbnb Reservations Nearly Doubled Every Year**

(Source: Airbnb Data, 2010-2014)



<sup>5</sup> Hosts pay Airbnb a three percent fee for reservations booked on the platform. Guests pay Airbnb a fee that varies from six to 12 percent of the reservation.

### Most Private Short-Term Rentals Booked in New York City Violated the Law.

Comparing the addresses associated with the Reviewed Transactions to a database of New York City buildings suggests that 72% of unique units used as private short-term rentals on Airbnb during the Review Period involved the rental of an "entire/home apartment" for less than 30 days in either (1) a "Class A" multiple dwelling or (2) a non-residential building.<sup>6</sup> These rentals would respectively violate the MDL (which prohibits such rentals in "Class A" buildings) or the New York City Administrative Code (which prohibits the use of non-residential buildings for housing). See Appendix A.

As depicted in Figure 3 below, the 300,891 reservations that appear to violate the building use and zoning laws yielded approximately \$304 million for hosts during the Review Period. Airbnb itself earned almost \$40 million in fees from these transactions. This represents approximately two out of every three dollars Airbnb received in connection with the Reviewed Transactions.

### Figure 3: Most Private Short-Term Rentals on Airbnb Appear to Violate New York Law

(Source: Airbnb Data, 2010-2014, compared with PLUTO)

# 72%

Percent of unique units rented in apparent violation of the MDL or NYC Administrative Code.

Revenue:	\$304 Million
Reservations:	300,891
Units:	25,532
Hosts:	20,835



The above numbers likely understate the degree to which private short-term rentals posted on Airbnb during the Review Period may have violated the law. For purposes of this calculation, the report assumes that *all* reservations identified as a "private room" (as distinct from an "entire home/apartment") complied with the MDL, regardless of whether they were located in a "Class A" building. In fact, "private room" rentals in "Class A" buildings shorter than 30 days would comply with the MDL only where the host or another permanent resident remained in the unit during the guest's stay.

<sup>6</sup> Specifically, the MDL permits rentals shorter than 30 days in hotels and "Class B" buildings, primarily one- and two-family homes. This analysis therefore assumes that rentals in residential buildings comply with the MDL where they are designated in the Department of Buildings separate classification system as Class A ("One Family Dwelling"), B ("Two Family Dwelling"), H (Hotels), S0 ("Primarily One Family with Two Stores or Offices"), S1 ("Primarily One Family with Store or Office"), or S2 ("Primarily Two Family with Store or Office"). The MDL also permits sublets of apartments for 30 days or more.



**New York City Is Likely Owed Millions in Unpaid Hotel Taxes from Private Short-Term Rentals.** A number of taxes may apply to private short-term rentals. See Appendix A. In particular, New York City assesses a hotel room occupancy tax of 5.875 percent that applies to private short-term rentals. Excluding fines and penalties, the total estimated liability for hotel room occupancy taxes associated with the Reviewed Transactions is over \$33 million.<sup>7</sup> See Figure 4 below.

Few Airbnb hosts appear to have filed the paperwork with New York City necessary to remit hotel room occupancy taxes, nor did Airbnb collect any of the hotel taxes owed for the Reviewed Transactions.<sup>8</sup> Even the most conservative estimate therefore finds that private short-term rentals booked through Airbnb incurred millions of dollars in unpaid hotel room occupancy taxes.

**Figure 4:**  
**Private Short-Term Rentals in New York City Incurred Over \$33**  
**Million in Hotel Tax Liability**  
 (Source: Airbnb Data, 2010-2014)

<b>Year</b>	<b>Hotel Room Occupancy Taxes</b>
2010	\$961,378
2011	\$3,079,250
2012	\$7,797,270
2013	\$14,221,841
2014 (through 6/2/14)	\$7,407,413
<b>Total</b>	<b>\$33,467,152</b>

<sup>7</sup> To calculate the total estimated liability for hotel room occupancy taxes, we first multiplied the total payments for private short-term rentals by the hotel room occupancy tax rate (.05875). Next, we added the per-room fee, which ranges up to \$2 per night depending on the cost of the room. We then excluded all "private room" transactions where the host only offered one listing. (Such transactions would not be taxable where the host remained present during the stay.) Finally, we applied the *de minimus* exception, excluding tax liability for any unit booked in a given year (a) for fewer than 14 days; or (b) on fewer than three separate occasions. See Appendix A for further discussion of the hotel room occupancy tax.

<sup>8</sup> Based on guidance from tax authorities, Airbnb maintains that it is not required to collect these taxes on behalf of hosts.

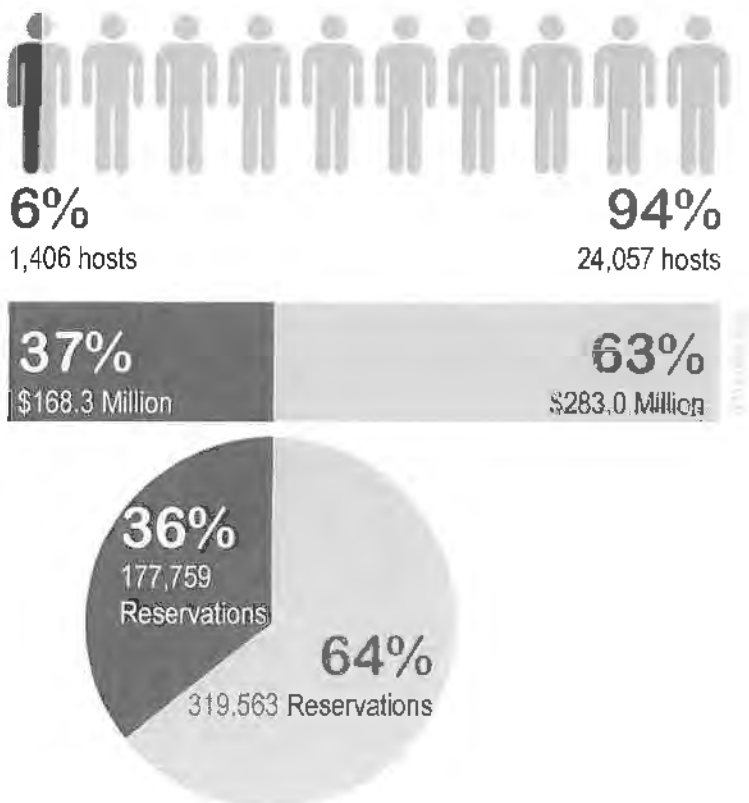
## COMMERCIAL USERS

**While Commercial Users Represented a Minority of Hosts, They Dominated the Private Short-Term Rental Market in Units, Reservations, and Revenue.** 25,463 hosts offered private short-term rentals in New York City during the Review Period. Of these hosts, 24,057 (94 percent) offered no more than two unique units for private short-term rentals during the period.<sup>9</sup>

As illustrated in Figure 5, 1,406 hosts (six percent) acted as “Commercial Users,” running larger operations that administered from three to 272 unique units during the Review Period. During that period, Commercial Users controlled more than one in five unique units in New York City booked on Airbnb as private short-term rentals, accepted more than one in three private reservations, and received more than one of every three dollars in revenue from private short-term rentals on Airbnb—for a total of \$168 million.

**Figure 5:**  
**Commercial Users Accounted for a Disproportionate Share of Private Short-Term Rentals**

(Source: Airbnb Data, 2010-2014) ■ Commercial Users (Hosts with 3+ Unique Units)



<sup>9</sup> While operating smaller ventures, these hosts may nonetheless be in violation of the law. See, e.g., pp. 8-9 above.

**Major Commercial Ventures Used Airbnb to Conduct Multimillion-Dollar Businesses.** Since 2010, 124 Commercial Users offered 10 or more unique units as private short-term rentals. These Commercial Users operated enterprise-scale ventures that together earned revenue of \$60 million during the Review Period. The chart below (Figure 6) reflects the top 12 Commercial Users by revenue. During the Review Period, these Commercial Users together controlled 801 unique units, accepted 14,655 private reservations, and received more than \$24.2 million in total revenue for private short-term rentals. A single Commercial User—the top New York host on Airbnb during the Review Period—controlled 272 unique units and received revenue of \$6.8 million. This individual received two percent of all New York host revenue for private stays and personally earned Airbnb close to \$800,000 in fees.

**Figure 6: The Top Commercial Users Earned Millions from Private Short-Term Rentals**

(Source: Airbnb Data, 2010-2014)

Host	Unique Units	Reservations	Nights Booked	Revenue to Host
1	272	3,024	29,234	\$6,838,472
2	223	1,342	12,003	\$2,863,493
3	46	1,833	12,184	\$2,168,027
4	22	1,607	13,103	\$1,616,814
5	16	751	4,212	\$1,613,763
6	27	1,480	8,675	\$1,598,276
7	24	1,185	6,008	\$1,418,058
8	21	802	4,731	\$1,417,459
9	14	1,072	6,175	\$1,345,823
10	9	663	3,211	\$1,156,561
11	34	425	7,708	\$1,138,706
12	92	471	3,198	\$1,026,270
<b>Total</b>	<b>801</b>	<b>14,655</b>	<b>110,442</b>	<b>\$24,201,722.00</b>

In April 2014, in direct response to NYAG's investigation, Airbnb publicly claimed it had barred certain large Commercial Users from accepting additional reservations. The time period covered by the Data does not enable us to gauge whether Airbnb's purported reform lessened the domination of Commercial Users in the private short-term rental market. Commercial Users with between three and nine unique units, however, enjoyed a similarly elite position on the platform; during the Review Period, they were responsible for one-quarter of all private short-term bookings and received revenue of \$108.9 million—about one in every four dollars hosts received. Regardless, the Data make clear that during the approximately 4.5-year Review Period, Commercial Users accounted for a substantial and disproportionate share of Airbnb's business in New York City.

# EFFECTS OF SHORT-TERM RENTALS ON RESIDENTIAL HOUSING SUPPLY

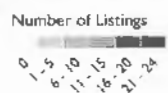
## Thousands of Residential Units in New York City Were Dedicated Primarily or Exclusively to Private Short-Term Rentals.

In 2013, over 4,600 unique units were each booked as private short-term rentals for three months of the year or more. Of these, nearly 2,000 units were each booked as private short-term rentals on Airbnb for at least 182 days—or half the year. While generating \$72.4 million in revenue for hosts, this rendered the units largely unavailable for use by long-term residents.<sup>10</sup> Notably, more than half of these units had also been booked through Airbnb for at least half of the prior year (2012). Because Airbnb anonymized the unit numbers associated with the Data, NYAG could not quantify the precise number of these units subject to the rent regulations.

The majority of units converted to private short-term rentals are in popular neighborhoods in Brooklyn and Manhattan, as reflected in Figure 7. A dozen buildings in those same neighborhoods had 60 percent or more of their units used at least half the year as private short-term rentals, suggesting that the buildings were operating as de facto hotels.

## Figure 7: Units Booked as Private Short-Term Rentals for Most of 2013 Were Concentrated in Brooklyn & Manhattan

(Source: Airbnb Data, 2013)



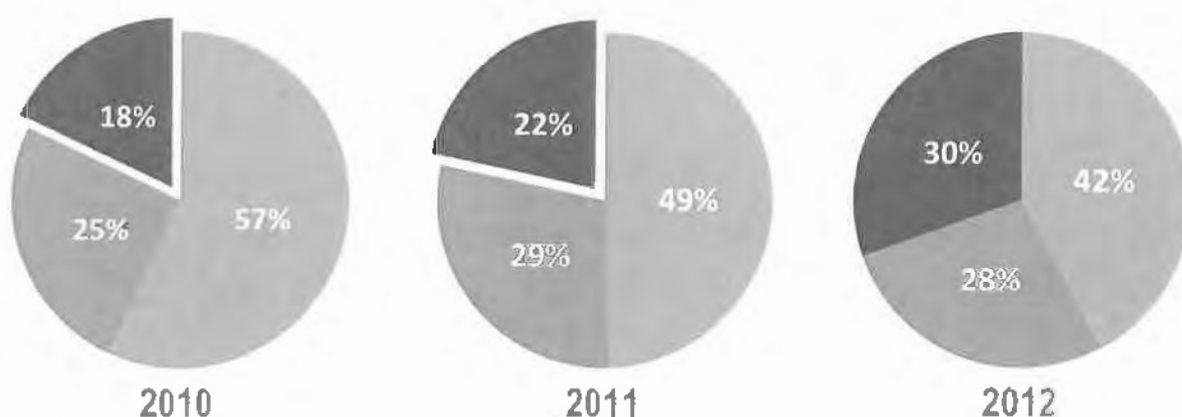
<sup>10</sup> It is likely that the number of units dedicated to private short-term rentals is substantially higher. The Reviewed Transactions cover Airbnb reservations only. Although listing on more than one site is common, this analysis cannot account for short-term rentals booked on other platforms. Also, the Data do not indicate periods when a unit is left intentionally vacant pending further short-term rentals.

**Units Dedicated Primarily or Exclusively to Private Short-Term Rentals Accounted for an Increasing Share of Revenue Over Time.** As reflected in Figure 8 below, over time, the share of revenue hosts received from units booked for more than half the year has increased, rising from 18 percent of private short-term rental revenue in New York City in 2010 to 38 percent of such revenue in 2013. Airbnb's revenue from the associated fees also increased, rising from over \$270,000 in 2010 to \$10 million in 2013. Units booked on Airbnb as private short-term rentals for half the year or more—and thereby largely removed from long-term housing—generated 38 percent of all fees Airbnb received in 2013 in connection with the Reviewed Transactions.

**Figure 8: Increasing Share of Host Revenue from Units Booked as Private Short-Term Rentals for Majority of the Year**

(Source: Airbnb Data, 2010-2014)

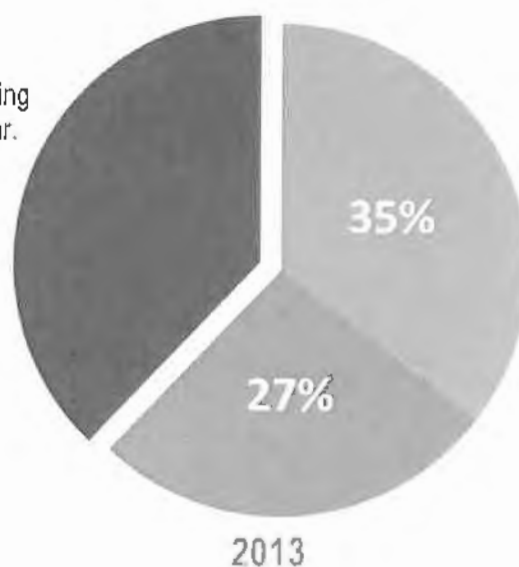
- Unit rented for 182+ days in year
- Unit rented for 90-182 days in year
- Unit rented for less than 90 days in year



**38%**

Percent of revenue to hosts renting unit(s) for more than half the year.

Revenue: \$72.3 mil  
 Reservations: 83,314  
 Units: 1,961  
 Hosts: 1,526



**Numerous Units Booked as Private Short-Term Rentals May Have Operated as Illegal Hostels.** Certain states permit hostels, where multiple, transient strangers often share rooms outfitted with bunk beds and barebones amenities. Because tight quarters and other factors create heightened fire and safety risks to travelers and permanent residents, these states generally require hostels to adhere to rigorous safety requirements. New York currently prohibits for-profit hostels entirely.

Although other explanations may apply to certain listings, patterns of high occupancy in connection with a single unit are consistent with their use as a hostel or other high-volume transient accommodation. Close to 200 units throughout New York City were each booked on Airbnb as private short-term rentals for more than 365 total nights in 2013.<sup>11</sup>

Figure 9 below provides data associated with 10 most-booked private short-term listings on Airbnb in 2013. For 2013, these units averaged 1,920 booked nights each. One listing in Brooklyn accepted 285 individual reservations for a total of 4,735 booked nights. Thus, on an average night, this listing accommodated 13 reservations.

**Figure 9: Ten Most-Rented Units Booked Substantially More Than 365 Nights a Year**

(Source: Airbnb Data, 2013)

Rank	Borough	Reservations	Nights Booked	Average Nightly Rate Charged	Revenue to Host
1	Brooklyn	285	4,735	\$49.12	\$193,495.00
2	Brooklyn	90	2,273	\$107.77	\$130,331.00
3	Brooklyn	361	2,129	\$45.15	\$81,110.00
4	Manhattan	313	2,059	\$178.72	\$305,243.00
5	Manhattan	304	1,599	\$75.73	\$108,130.00
6	Manhattan	44	1,407	\$104.22	\$100,992.00
7	Brooklyn	460	1,313	\$101.94	\$113,168.00
8	Manhattan	221	1,278	\$158.80	\$169,693.00
9	Manhattan	204	1,245	\$105.97	\$110,965.00
10	Queens	182	1,165	\$132.44	\$119,716.00

<sup>11</sup> The Data exclude all listings identified as a "shared room," which could likewise serve as illegal hostels or other high-volume transient accommodations. We expect that the number of New York City units booked as short-term rentals for more 365 days a year during the Review Period would increase if these transactions were included.

# GEOGRAPHIC DISTRIBUTION OF SHORT-TERM RENTALS

**Revenue Generated in Manhattan and Brooklyn Accounted for Virtually All Revenue from Private Short-Term Rentals Citywide.** During the Review Period, private bookings in those two boroughs yielded \$438 million to Airbnb hosts—97 percent of the citywide revenue totals. The 33,825 unique units in Manhattan and Brooklyn during that period accounted for the vast majority (96 percent) of units used for private short-term rentals booked citywide. This runs counter to the suggestion that any benefits associated with private short-term rentals are well-distributed throughout the city.

As depicted in Figure 10 below, during the Review Period, about 17,000 hosts offered over 23,000 unique units in Manhattan for private short-term rentals and received revenue of \$338 million. Brooklyn emerged as a distant second in each category, with just under 8,000 hosts offering about 10,000 unique units and receiving revenue of approximately \$100 million. By contrast, private short-term rentals in the remaining three boroughs (Queens, Staten Island, and the Bronx) together yielded hosts just \$12.2 million—less than three percent of the citywide total.

**Figure 10: Vast Majority of Private Short-Term Rentals Booked in Manhattan and Brooklyn**

(Source: Airbnb Data, 2010-2014)



**Three Community Districts in Manhattan Accounted for an Outsize Share of Private Short-Term Rentals in the Borough and Citywide.** As reflected in Figure 11, three Community Districts—the Lower East Side/Chinatown, Chelsea/Hell's Kitchen, and Greenwich Village/SoHo—accounted for one-third of unique units booked as private short-term rentals in New York City. These three, largely downtown districts accounted for host revenue of \$186.9 million, which represented 55 percent of host revenue for private stays in Manhattan and 41 percent of host revenue for private stays citywide. Greenwich Village/SoHo and Chelsea/Hell's Kitchen had the highest median rents in New York City, tied at \$2,035 per month in 2012.<sup>12</sup> The Lower East Side was the most rapidly gentrifying neighborhood in New York City (based on the spread between median rents of new residents compared with all renters).<sup>13</sup>

**Figure 11:**  
**Three Lower Manhattan Community Districts Accounted for Most of Borough Revenue**

(Source: Airbnb Data, 2010-2014)



<sup>12</sup> NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. "MN02 Greenwich Village/SoHo." Available: [http://furmancenter.org/files/sotc/SOC2013\\_Manhattan\\_02.pdf](http://furmancenter.org/files/sotc/SOC2013_Manhattan_02.pdf)

NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. "MN04 Clinton/Chelsea." Available: [http://furmancenter.org/files/sotc/SOC2013\\_Manhattan\\_04.pdf](http://furmancenter.org/files/sotc/SOC2013_Manhattan_04.pdf)

<sup>13</sup> NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. "MN03 Lower East Side/Chinatown." Available: [http://furmancenter.org/files/sotc/SOC2013\\_Manhattan\\_03.pdf](http://furmancenter.org/files/sotc/SOC2013_Manhattan_03.pdf)

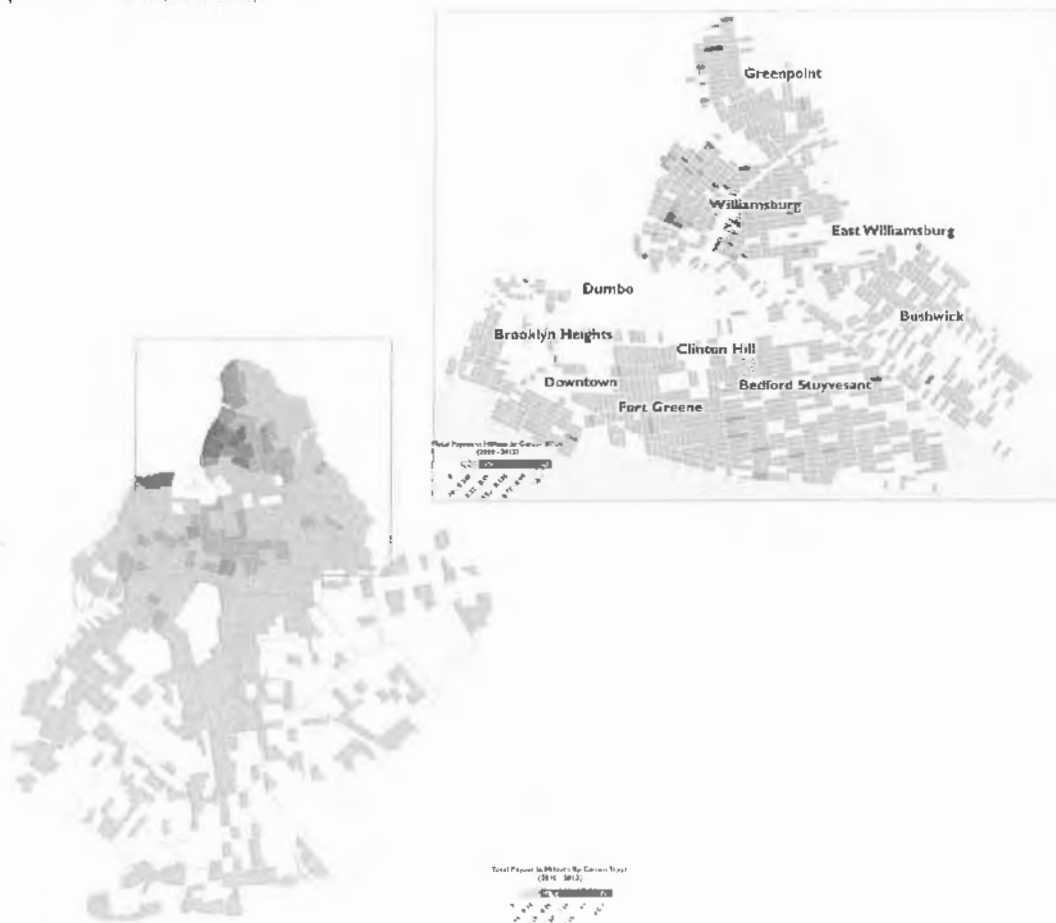


**Williamsburg and Greenpoint Hosted the Greatest Share of Private Short-Term Rentals in Brooklyn.** During the Review Period, most revenue from private Brooklyn short-term rentals came from Community Districts along the Northern Brooklyn waterfront and in the neighborhoods often collectively called “Brownstone Brooklyn.” As depicted in Figure 12 below, the Williamsburg/Greenpoint Community District had for the largest concentration of private short-term rentals in Brooklyn, generating \$39 million for hosts—40 percent of the boroughwide total and nearly 10 percent of the citywide total.

Like the Lower East side, the Williamsburg/Greenpoint Community District was one of the most rapidly gentrifying neighborhoods in New York City, as reflected in the disparity between the rents paid by old and new renters in 2012.<sup>14</sup> Other popular community districts included Downtown Brooklyn/Fort Greene (\$14.7 million revenue), Prospect Heights/Bedford Stuyvesant (\$14.4 million revenue), and Park Slope (\$8.67 million revenue).

**Figure 12: Williamsburg and Greenpoint Accounted for 40 Percent of Brooklyn Host Revenue**

(Source: Airbnb Data, 2010-2014)



<sup>14</sup> NYU Furman Center For Housing and Urban Policy, State of City's Housing & Neighborhoods 2013. “BK01 Greenpoint/Williamsburg.” Available: [http://furmancenter.org/files/sotc/SOC2013\\_Brooklyn\\_01.pdf](http://furmancenter.org/files/sotc/SOC2013_Brooklyn_01.pdf)

# APPENDIX A:

## SUMMARY OF SELECTED LAWS

### PROPERTY USE AND SAFETY LAWS

Property use and safety laws establish basic standards for the permissible and sound use of property. These laws seek to protect the health, safety, morals, welfare, and reasonable comfort of the residents of the property.

One such law is the New York State Multiple Dwelling Law (the "MDL"), which prohibits rentals of less than 30 days in "Class A" multiple dwelling. Prior to 2010, the MDL defined "Class A" buildings as those dwellings occupied "as a rule, for permanent residence purposes." The phrase "as a rule, for permanent residence purposes" was ambiguous and left room for various interpretations. For example, the phrase "as a rule" could mean that at least some measure of secondary short-term occupancy is permitted in a "Class A" building, provided that the majority of units are occupied on a permanent residency basis. The court in *City of New York v. 330 Continental, LLC*, 60 A.D.3d 226 (1st Dept. 2009) followed this interpretation, holding that the MDL is not violated when only a minority of units in a Class A building are used as transient hotel rooms.

In 2010, the MDL was amended to specify that permanent residency of a dwelling means at least 30 consecutive days' occupancy by a "natural person or family" in a unit. Thus, one cannot rent out an apartment in a "Class A" multiple dwelling for less than 30 days, unless a "permanent resident" is present during the rental period. A "multiple dwelling" is a dwelling occupied by three or more families living independently. The purpose of this prohibition is to protect guests, ensure the proper fire and safety codes, and protect permanent residents who "must endure the inconvenience of hotel occupancy in their buildings." It was also designed to preserve the supply of affordable permanent housing. See New York State Assembly Memorandum in Support of Legislation (S. 6873-B, 233rd Leg. (N.Y. 2010 (Sponsor's Memo) Bill No. A10008).

Even if the building is not a "Class A" multiple dwelling, a short-term rental could still violate the law. For example, New York City Administrative Code, section 28-118.3.2, prohibits changes to the use, occupancy, or egress of a building. A short-term stay in a building that is not a "Class A" multiple dwelling would violate the law unless the building's certificate of occupancy expressly authorized that type of use.

## TAX LAWS

Anyone who rents out a unit on a short-term basis must pay applicable hotel taxes. These taxes include the New York City Hotel Occupancy tax of 5.875%, plus an additional per room fee of 50 cents to \$2, depending on the total cost of the room.<sup>15</sup>

The operator (as relevant here, the host) is personally liable for the portion of the tax collected or required to be collected. The operator must collect the tax for all rentals of apartments or rooms, except in the case of: (1) rental of only one room in an owner-occupied home; (2) rentals for less than 14 days, or for fewer than three occasions during the year (for any number of total days);<sup>16</sup> and (3) "long-term leases," i.e., rentals for a continuous period of 180 consecutive days.

Other taxes, including sales taxes and the New York City Unincorporated Business Tax ("UBT"), may also apply. The UBT is a 4% tax on net income imposed on individuals or unincorporated entities that carry on or are currently liquidating a trade, business, profession, or occupation within New York City. This includes those engaged in the business of renting out homes and apartments for profit as an unincorporated business.

<sup>15</sup> This additional fee is based on the "rent" being charged for a room:

If the rent for the room is...	The tax will be...
\$10 or more, but less than \$20	50 cents per day per room + the hotel room occupancy tax rate
\$20 or more, but less than \$30	\$1 per day per room + the hotel room occupancy tax rate
\$30 or more, but less than \$40	\$1 per day per room + the hotel room occupancy tax rate
\$40 or more	\$2 per day per room* + the hotel room occupancy tax rate

A hotel suite may have more than one room. The tax will be \$2.00 per room per day on each of the rooms that make up the suite plus the hotel room occupancy tax for the entire suite rental. For example, the tax on a suite with 3 rooms will be \$6.00 per day plus the hotel room occupancy tax for the entire suite rental.

<sup>16</sup> Rentals of listings in a single building are aggregated and rentals of listings by a single owner or primary leaseholder are aggregated across buildings. Once a facility is required to pay hotel occupancy tax, it must continue to pay the tax until it falls below the de minimis thresholds for three consecutive years.

## **APPENDIX B: SELECTED AFFIDAVITS (FIRE & SAFETY ISSUES)**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
THE CITY OF NEW YORK,

Plaintiff,

AFFIDAVIT IN  
SUPPORT

-against-

Index No.

CITY OASES, LLC, et al.,

Defendants.  
-----X

STATE OF NEW YORK     )  
                                  )ss.:  
COUNTY OF KINGS        )

THOMAS JENSEN, being duly sworn, deposes and says:

1. I am employed by the New York City Fire Department ("FDNY") as the Chief of Fire Prevention, a position I have held since 2007. I am a member of FDNY's uniformed firefighting force, and hold the rank of Assistant Chief. I have been employed by FDNY since 1973, when I was appointed to the position of Firefighter. Prior to being appointed to the rank of Assistant Chief, I was promoted to and held the ranks of Lieutenant, Captain, Battalion Chief, Deputy Chief, Deputy Assistant Chief.

2. As Chief of Fire Prevention, I oversee the operations and personnel of the Bureau of Fire Prevention, the FDNY bureau primarily responsible for FDNY's fire prevention and code enforcement mission. In addition, as Chief of Fire Prevention I served as the Chair of the Fire Protection Systems Committee of the New York City Department of Buildings Code Revision Project that culminated in the 2014 New York

City Building Code, and I was a member of the Managing Committee of FDNY's Code Revision Project that culminated in the 2014 New York City Fire Code.

3. I am fully familiar with the New York City Fire Code, and its predecessor, the New York City Fire Prevention Code, by virtue of my training, experience and position.

4. I make this affidavit in support of plaintiffs' application for a temporary restraining order, and preliminary injunction in the above-captioned action. This affidavit outlines the heightened fire and life safety concerns and standards associated with transient residential occupancies, as compared to non-transient residential occupancies.

5. FDNY is responsible for enforcing the New York City Fire Code ("Fire Code") and rules promulgated thereunder, which seek to prevent fires and mitigate their danger to life or property, throughout the five boroughs of New York City. FDNY also has authority to enforce fire and life safety provisions contained in the New York City Building Code ("Building Code").

6. One type of building occupancy specifically addressed in the Fire Code and Building Code are hotels and other transient accommodations.

7. Transient residential occupancies in New York City (classified by Building Code Section 310.1.1 as Group R-1 occupancies) are required to be designed, constructed and operated in accordance with more stringent fire protection requirements than those applicable to apartment buildings and other non-transient residential occupancies (classified by New York City Building Code Section 310.1.2 as Group R-2 occupancies).

8. A major reason for this distinction is that the visitors who stay in transient residential occupancies are not familiar with the layout of the building, including the exit stairwells, as are permanent residents. Occupants of transient accommodations therefore are likely to find it more difficult to evacuate the building quickly in the event of a fire or other emergency. This would be especially the case if there is a heavy smoke condition, smoke being a prime cause of death and serious injury in the event of fire. Occupants of transient accommodations typically are only familiar with the entrance through which they entered and the elevators. Use of elevators is discouraged in the case of a fire because they may open on floors engulfed by fire, smoke or heat, or even stall between floors.

9. Historically, it has taken tragic fires to lead to major changes and improvements in fire safety. For example, the 1980 fire at the Las Vegas MGM Grand Hotel and Casino, which resulted in some eighty-five (85) deaths and hundreds of injuries, and other significant hotel fires in Las Vegas, Houston, and White Plains, New York, led to substantial changes in fire safety requirements for transient accommodations in New York City. Beginning in the 1980s, FDNY addressed the need for heightened fire safety protection requirements in transient accommodations, first by issuance of a directive (Fire Prevention Directive 2-82), then by promulgation of a rule (3 RCNY 39-01), and more recently through the enactment in 2008 of Chapter 4 of the new New York City Fire Code, which, together with the new Fire Department rules, incorporated the requirements of the now repealed Fire Prevention Directive 2-82 and 3 RCNY 39-01.

10. With the enactment of Local Law No. 148 of 2013, the Fire Code was revised to enhance emergency preparedness in hotels and other transient residential

occupancies by requiring that the emergency preparedness plans, staff training and drills in such occupancies address all types of emergencies, not just fires. The Fire Department will be promulgating rules implementing these new Fire Code provisions. Until such time as such rules are promulgated, existing (2008 Fire Code) emergency preparedness requirements for hotels and other transient residential occupancies remain in effect as set forth in FC401.3.6.1.

11. The Fire Code imposes or references a series of requirements on transient residential occupancies beyond those which are applicable to non-transient residential occupancies:

- (a) Provision of portable fire extinguishers (FC 906.1);
- (b) Provision of automatic sprinkler systems (FC 903.2, referencing the Building Code);
- (c) Provision of photoluminescent exit path markings for exits and stairwells in high-rise buildings (FC 1001.2, referencing the Building Code);
- (d) Provision of manual, automatic, or manual and automatic fire alarm systems, on all floors with smoke detection capability, notification of building occupants and, in most buildings, voice communication capability (FC 907.2, referencing the Building Code and National Fire Protection Association Standard 72);
- (e) A fire safety and evacuation plan, which sets forth the evacuation and other procedures to be implemented in the event of a fire, and which



designates the fire safety director, deputy fire safety directors and fire brigade members<sup>1</sup> (2008 Fire Code Section FC 404.2.1);

(f) Provision of a fire safety director, who is responsible for implementing the fire safety and evacuation plan, notifying the Fire Department, and communicating all instructions and directions to building occupants in the event of a fire, and who must possess a FDNY certificate of fitness and be present in the hotel or motel at all times (2008 Fire Code Section FC 401.6.5);

(g) Provision of a lobby fire command center, equipped with a control panel that displays the status of alarm devices in the building, and that is used by the fire safety director and FDNY emergency response personnel to implement the fire safety and evacuation plan (FC 907.3);

(h) Provision of a fire brigade, consisting of building staff trained in fire safety, who assist the fire safety director and FDNY personnel with the implementation of the fire safety and evacuation plan (2008 Fire Code Section FC 401.6.5); and

(i) Posting of diagrams on every guest room entrance door showing the route to two stairwells or other means of egress (FC 405.5).

12. In contrast, the New York City Fire Code contains the following less stringent fire protection requirements for non-transient residential occupancies:

(a) There is no requirement for portable fire extinguishers.

---

<sup>1</sup> 2008 Fire Code Section 402.4.1(8) requires this plan for "Group R-1 occupancies, occupied by more than 30 lodgers, or more than 15 lodgers above street level, for a period of 90 days or less; and/or operated to accommodate such numbers of lodgers for such period of occupancy; and/or designed to contain a total of more than 30 sleeping rooms, or more than 15 sleeping rooms above the street level, for such period of occupancy; and/or occupied by one or more lodgers on a floor more than 75 feet (22 860 mm) above the street level, for such period of occupancy, or operated or designed for such lodging."

(b) There was no requirement for a building-wide fire alarm system in older apartment buildings, and, in newer apartment buildings, the requirement for a fire alarm system is limited to certain areas of the building and does not alert building occupants in the event the fire alarm system is activated (FC 907.2, referencing the Building Code and National Fire Protection Association Standard 72).

(c) In contrast to the detailed fire safety and evacuation plan and emergency preparedness staff to implement it required in transient residential occupancies, in apartment buildings the Fire Code only requires annual distribution of a fire safety guide that contains information about the building, basic fire prevention and fire preparedness measures and emergency fire safety instructions in the event of fire (FC 406.2.1).

(d) In contrast to the posting of diagrams on each transient occupancy unit showing two evacuation routes, in apartment buildings there need only be a fire safety notice posted on the back of the main entrance door to individual dwelling unit doors and in the common areas of the building, that assists occupants in selecting the safest course of action in the event of a fire (FC 405.5).


13. Accordingly, a visitor who occupies a unit in an apartment building that is being used illegally for transient occupancy, does not have the benefit of the fire and life safety measures required in legal transient occupancies for the protection of persons unfamiliar with the layout of the building. Moreover, a visitor who occupies a unit in an apartment building that is being used illegally for transient occupancy is not afforded the same opportunity to familiarize himself or herself with the information contained in the

fire safety guide for that building, as is afforded to a resident of the building. The visitor is thus placed at significantly increased risk of injury or death in the event of a fire.

14. In the larger context of fire safety in New York City it is important to note that the overall fire protection measures developed and instituted in recent decades have resulted in a dramatic decline in the number of fatalities attributable to fire incidents. As depicted in Exhibit A attached hereto, the number of fire related fatalities declined from almost 300 in 1976 to 62 in fiscal year 2010. That number has since declined even further. FDNY Statistics for fiscal year 2013 (see Exhibit B) reported 493,377 fire incidents, including 25,278 structural fires but only 47 civilian fire fatalities. New York City's fire protection measures, including those designed to protect transient visitors to the City, have contributed to the historically low level of fire deaths.

  
THOMAS JENSEN  
Chief of Fire Prevention

Sworn to before me this  
19<sup>th</sup> day of August, 2014.

  
NOTARY PUBLIC

Melissa Angier  
Notary Public, State of New York  
No. 02498903626  
Qualified in New York County  
Commission Expires 12/31/17

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
THE CITY OF NEW YORK,

Plaintiff,

Index No.:

-against-

CITY OASES, LLC, MINA GUIRGUIS, SZILVIA  
PATKOS, HAMID KERMANSHAH a/k/a  
ABDOLHAMID KERMANSHAH, ABDOLMAJID  
KERMANSHAH a/k/a MAJID KERMANSHAH,  
WILSHIRE LIMITED, THE LAND AND BUILDING  
KNOWN AS 59 FIFTH AVENUE, BLOCK 570, LOT  
6, County of New York, City and State of New York,  
RAHMAN NY INC., THE LAND AND BUILDING  
KNOWN AS 5 WEST 31<sup>ST</sup> STREET, BLOCK 833,  
LOT 36, County of New York, City and State of New  
York, and "JOHN DOE" and "JANE DOE," numbers 1  
through 10, fictitiously named parties, true names  
unknown, the parties intended being the managers or  
operators of the business being carried on by defendants  
CITY OASES, LLC, RAHMAN NY INC., and/or  
WILSHIRE LIMITED,

**Affidavit of**  
**VLADIMIR PUGACH**

Defendants.  
-----X

STATE OF NEW YORK )

: ss.:

COUNTY OF NEW YORK )

VLADIMIR PUGACH, being duly sworn, deposes and says:

1. I am presently employed as an Associate Inspector for the New York City  
Department of Buildings (hereinafter the "DOB"), and I have been so employed for almost  
nine (9) years. I have been assigned to the Mayor's Office of Special Enforcement ("OSE")

(formerly named the Office of Midtown Enforcement) since July 2009, where I serve as a member of the Mayor's Inspection Task Force (hereinafter the "MTF").

2. The MTF is composed of inspectors from various New York City agencies, including the DOB, the New York City Fire Department, the New York City Health Department, and the Department of Finance, as well as officers from the New York City Police Department. The MTF's function is to perform 'quality of life' inspections, covering compliance with health, safety and fire codes, in structures located within the five boroughs of the plaintiff, CITY OF NEW YORK [the "CITY"].

3. I submit this affidavit, which is based upon both my personal knowledge and my review of pertinent records kept by the CITY and its various agencies, in support of the plaintiff's application for a temporary restraining order, as well as its motion for a preliminary injunction.

4. On December 3, 2011, and August 25, 2012, I participated in code enforcement inspections of 59 Fifth Avenue, New York; and on April 21, 2012, and October 5, 2013, I participated in code enforcement inspections of 5 West 31<sup>st</sup> Street. These inspections were conducted by the MTF in response to complaints that dwelling units in the buildings were being operated as illegal transient hotel units.

#### **59 Fifth Avenue**

##### **A. December 3, 2011 Inspection**

5. During the December 3, 2011 inspection of 59 Fifth Avenue, I observed, among other things, (a) that the second and third floors had been converted from 2 class A apartments to 3 class A apartments on each floor without first obtaining a permit as required by the New York City Building Code; (b) that the second and third floors were occupied for

transient use, contrary to that allowed by the certificate of occupancy for the building; (c) that there was a failure to provide (i) a fire alarm system as required for transient occupancy, (ii) a sprinkler system as required for transient occupancy, and (iii) the means of egress required for transient occupancy.

6. Accordingly, I issued ECB Notices of Violation for the violations, as follows:

- i. Violation No. 34924282Z for violation of § 28-118.3.2 of the New York City Building Code for occupancy contrary to that allowed by Certificate of Occupancy No. 75911, in that the 2<sup>nd</sup> and 3<sup>rd</sup> floors were converted from two class A apartments to 3 class A apartments, and were occupied by transient, short-term guests, scheduled to stay for less than 30 days. Additionally, the attic apartment was illegally occupied as an office. This is a Class 1 Hazardous violation.
- ii. Violation No. 34924283K for violation of § 28-105.1 of the New York City Building Code for work without a DOB permit for the installation of full height partitions creating additional apartments on the 2<sup>nd</sup> and 3<sup>rd</sup> floors, and plumbing for the additional apartment. This is a Class 1 Hazardous violation.
- iii. Violation No. 34924284M for violation of § BC 1004.4 of the New York City Building Code for failure to provide required means of egress for transient use of the 2<sup>nd</sup> and 3<sup>rd</sup> floors. This is a Class 1 Hazardous Violation.
- iv. Violation No. 34924285Y for violation of § BC 907.2.8 of the New York City Building Code for failure to provide a fire alarm system in a building used for transient occupancy. This is a Class 1 Hazardous Violation.
- v. Violation No. 34924286X for violation of § BC 903.2.7 of the New York City Building Code for failure to provide an automatic sprinkler system in a building used for transient occupancy. This is a Class 1 Hazardous Violation.

A copy of the Certificate of Occupancy No. 75911 is annexed hereto as Exhibit "A".

7. These violations directed discontinuation of the illegal occupancy, the obtaining of permit for the work done without a permit, and imposed a partial stop work

order. Copies of each of the December 3, 2011 ECB Notices of Violation are collectively annexed hereto as Exhibit "B".

8. On the day of the inspection, December 3, 2011, I took photographs at 59 Fifth Avenue of the "House Rules" for the transient guests, and of documents in possession of guests showing the booking of accommodations at 59 Fifth Avenue, indicating the length of stay, among other things, documents which were shown by guests to the MTF team. Those photographs are attached as Exhibit "C".

9. The violations were the subject of a hearing at the New York City Environmental Control Board ("ECB"), held on April 12, 2012, at which I testified. After hearing, the violations were sustained and held to be Class 1 Hazardous Violations by the ECB judge. A copy of the April 19, 2012 ECB decision is annexed hereto as Exhibit "D".

10. Defendant Wilshire Limited appealed the ECB judge's decision to the Board. That appeal was denied by Appeal Decision and Order issued on December 20, 2012. A copy is attached as Exhibit "E".

**B. August 25, 2012 Inspection**

11. On August 25, 2012, I participated in a follow-up code enforcement inspection of 59 Fifth Avenue conducted by the MTF, in response to a new complaint that 2<sup>nd</sup> and 3<sup>rd</sup> floor apartments were being operated as an illegal transient hotel.

12. During that inspection I observed that there had been no change in the illegal use of the 2<sup>nd</sup> and 3<sup>rd</sup> floor apartments for transient use and occupancy, and that the attic apartment was also being used and occupied transiently. In addition, I observed that the egress and fire safety violations had not been corrected.

13. Accordingly, I issued ECB Notices of Violation for the recurring violations

and additional fire safety violations, as follows:

- i. Violation No. 34979610R for violation of § 28-118.3.2 of the New York City Building Code for occupancy contrary to that allowed by Certificate of Occupancy No. 75911, in that the 2nd and 3rd floors were converted from two class A apartments to 3 class A apartments, and were occupied by transient, short-term guests, scheduled to stay for less than 30 days. Additionally the attic was also being occupied by transient, short-term guests, and one of the 2nd floor apartments as an office. This is a recurring Class 1 Hazardous violation.
- ii. Violation No. 34979611Z for violation of § BC 1004.4 of the New York City Building Code for failure to provide required means of egress for transient use of the 2<sup>nd</sup> and 3<sup>rd</sup> floors. This is a recurring Class 1 Hazardous Violation.
- iii. Violation No. 34979612K for violation of § BC 907.2.8 of the New York City Building Code for failure to provide a fire alarm system in a building used for transient occupancy. This is a recurring Class 1 Hazardous Violation.
- iv. Violation No. 34979613M for violation of § BC 903.2.7 of the New York City Building Code for failure to provide a sprinkler system in a building used for transient occupancy. This is a recurring Class 1 Hazardous Violation.
- v. Violation No. 34979614Y for violation of § 28-204.4 of the New York City Building Code, for failure to comply with the Commissioner's order to file a certificate of correction with respect to the five violations described in Paragraph 6 of this Affidavit.

14. The violations directed discontinuation of the illegal occupancy and the filing of a certificate of correction. Copies of the August 25, 2012 ECB Notices of Violation are collectively annexed hereto as Exhibit "F"

15. During the inspection I took photographs of documents in possession of guests showing the booking of accommodations at the Subject Premises and information on check-in procedures. Copies of these photographs are annexed hereto as Exhibit "G".

16. The violations were the subject of a hearing at the New York City Environmental Control Board ("ECB"), held on May 2, 2013, at which I testified. After



hearing, the violations were sustained and held to be Class 1 Hazardous Violations by the ECB judge. A copy of the May 10, 2013 ECB decision is annexed as Exhibit "H".

17. Defendant Wilshire Limited appealed the ECB judge's decision to the Board. That appeal was denied by Appeal Decision and Order issued on October 31, 2013. A copy of the Appeal Decision and Order is annexed hereto as Exhibit "T".

5 West 31<sup>st</sup> Street

A. April 21, 2012 Inspection

18. During the code inspection of 5 West 31<sup>st</sup> Street conducted by the MTF on April 21, 2012, I observed, among other things, (a) that, on the ninth and tenth floors, full height partitions had been erected to create twelve transient-use rooms, and plumbing and electrical wiring installed, without first obtaining a permit as required by the New York City Building Code; (b) that the ninth and tenth floors were occupied for transient use; (c) that there was a failure to provide (i) a fire alarm system as required for transient occupancy, (ii) a sprinkler system as required for transient occupancy, and (iii) the means of egress required for transient occupancy; and (d) that there was a failure to comply with the Building Code requirements for the direction of swing of exit doors for transient accommodations, in that the doors marked for exit on the ninth and tenth floors swing against the direction of egress.

19. There being no certificate of occupancy for 5 West 31<sup>st</sup> Street, upon my examination of the records at the DOB concerning the building, I determined that the transient occupancy on the ninth and tenth floors of the building is contrary to that which is lawfully allowed.

20. Accordingly, I issued ECB Notices of Violation for the violations, as follows:

- i. Violation No. 34947948H for violation of § 28-118.3.2 of the New York City Building Code for occupancy contrary to that allowed by

DOB records, in that the 9<sup>th</sup> and 10<sup>th</sup> floors, with twelve sleeping rooms, were occupied by transient, short-term guests, scheduled to stay for less than 30 days. This is a Class 1 Hazardous violation.

- ii. Violation No. 34947947X for violation of § 28-105.1 of the New York City Building Code for work without a DOB permit for the installation of full height partitions creating twelve transient-use rooms on the 9<sup>th</sup> and 10<sup>th</sup> floors, and for the installation of plumbing and electrical wiring. This is a Class 1 Hazardous violation.
- iii. Violation No. 34947942R for violation of §§ 28-301.1, BC 1018.1, and 27-366 of the New York City Building Code for failure to provide required means of egress for transient use of the 9<sup>th</sup> and 10<sup>th</sup> floors. This is a Class 1 Hazardous Violation.
- iv. Violation No. 34947943Z for violation of § BC 907.2.8 of the New York City Building Code for failure to provide a fire alarm system in a building used for transient occupancy. This is a Class 1 Hazardous Violation.
- v. Violation No. 34947944K for violation of § 1008.1.2.2 of the New York City Building Code for failure to comply with the required direction of swing of exit doors in a building with transient occupancies. This is a Class 1 Hazardous Violation.
- vi. Violation No. 34974946Y for violation of § 28-118.3 of the New York City Building Code for an altered or changed building being occupied without a valid certificate of occupancy, as required by §§ 28-118.3.1 and 28-118.3.2.

21. The violations directed discontinuation of the illegal occupancy, the obtaining of a certificate of occupancy, and compliance with the Code. Copies of the April 21, 2012 ECB Notices of Violation are collectively annexed hereto as Exhibit "J".

22. On the day of the inspection, April 21, 2012, I took photographs at 5 West 31<sup>st</sup> Street of the operator's contact information and Certificate of Authority posted at the building, of booking invoices and reservation documents. Those photographs are annexed hereto collectively as Exhibit "K".

23. The Violations were the subject of a hearing at the New York City

Environmental Control Board ("ECB"), held on February 28, 2013, at which I testified. After hearing, the violations were sustained and held to be Class 1 Hazardous Violations by the ECB judge. A copy of the March 14, 2013 ECB decisions is annexed hereto as Exhibit "L".

**B. October 5, 2013 Inspection**

24. On October 5, 2013, I participated in a follow-up code enforcement inspection of 5 West 31<sup>st</sup> Street conducted by the MTF in response to a new complaint that the Subject Premises was being operated as an illegal transient hotel.

25. On that date the apparent person in charge refused entry to the MTF to perform an inspection. That individual, Iana Ivashyna, was the same apparent person in charge at the time of the first inspection performed on April 21, 2012. A photograph of her official New York State identification card taken during the prior inspection conducted on April 21, 2012 is attached as Exhibit "M".

26. Each and every one of the sixteen (16) ECB NOV's noted above that I issued to the defendants herein included an order from the DOB Commissioner to correct the conditions that gave rise to the charged violations and to certify such correction with DOB. Under DOB regulations, a Class 1 [immediately hazardous] violation must be corrected 'immediately'.

27. I have reviewed the DOB records regarding the Buildings at 5 West 31<sup>st</sup> Street and 59 Fifth Avenue. Based upon my review, I have determined that, to date, the defendant owners have failed to certify their correction for each and every one of the sixteen (16) NOV's that were issued to them on December 3, 2011, April 21, 2012, and August 25, 2012. Of those sixteen (16) NOV's, fifteen (15) of them were issued on the basis that the violations were Class I hazardous violations and, in fact, after their respective hearings, the ECB upheld

such violations as Class 1 hazardous violations. The sixteenth violation [NOV 34979614Y] was issued as an "Aggravated 1" violation, indicating that the charged violation was issued as a 'repeat offense', which is considered to be a more serious violation than a Class 1 violation. A copy of a recent print-out from DOB records for each of the two buildings, at 5 West 31<sup>st</sup> Street and 59 Fifth Avenue, is annexed hereto collectively, as Exhibit "N", confirming this information.

28. Finally, as part of OSE's investigation regarding the operation by defendants of illegal short-term rentals in permanent residence apartments in New York City, I, together with MTF member New York City Police Department ["NYPD"] Sergeant Arthur Levine, confirmed the current offering and availability of short-term accommodations at both 59 FIFTH AVENUE and 5 WEST 31<sup>st</sup> STREET. See Affidavit of NYPD Sergeant Arthur Levine, sworn to on August 22, 2014 ["Levine Affid."], at paragraph 4.

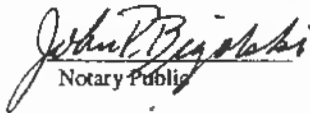
29. In that regard, we booked reservations through the Contempo Design Suites web site, <http://www.contempodesignnyc.com>, for two (2) days [11/6/14 – 11/8/14] at 59<sup>th</sup> FIFTH AVENUE, under the alias name of "Kim Gallagher". In addition, we booked reservations through the Urban Oasis web site, <http://www.urbanoasisnyc.com>, for seven (7) days [5/1/15 – 5/8/15] at 5 WEST 31<sup>st</sup> STREET, under the alias name of "Martin Keller". Copies of the reservation documents and invoices for 59 FIFTH AVENUE and 5 WEST 31<sup>st</sup> STREET are annexed to the Levine Affid., respectively, as Exhibits "A" and "B".

30. Based on my observations with Sergeant Levine that the defendants were offering apartments in both 59 FIFTH AVENUE and 5 WEST 31<sup>st</sup> STREET for short-term rental, and based on our actual booking of short-term rental accommodations at both Buildings despite the fact that such accommodations are not lawfully permitted by the relevant provisions

of the applicable statutes and codes, I issued two ECB Notices of Violation: ECB NOV # 35096468M [to respondent/defendant WILSHIRE LIMITED, for 59 FIFTH AVENUE] and ECB NOV # 35096469Y [to respondent/defendant RAHMAN NY INC., for 5 WEST 31<sup>ST</sup> STREET]. Both NOV's cited the respondents/defendants for their violations of NYC Building Code [Admin. Code] § 28-210.3 [Illegal conversions of dwelling units from permanent residences.] which states, in pertinent part, that "It shall be unlawful for any person or entity who owns or occupies a multiple dwelling or dwelling unit classified for permanent residence purposes to use or occupy, offer or permit the use or occupancy or to convert for use or occupancy such multiple dwelling or dwelling unit for other than permanent residence purposes." Copies of the two NOV's are annexed hereto , collectively, as Exhibit "O".

  
VLADIMIR PUGACH

Sworn to before me on the  
25<sup>th</sup> day of August, 2014

  
Notary Public

JOHN P. BIGOLSKI  
Notary Public, State of New York  
No. 01815023114  
Qualified in Kings County  
Commission Expires Jan. 31, 2018-JB

## APPENDIX C: SELECTION OF ANONYMOUS COMPLAINTS

During the Review Period, thousands of New Yorkers submitted complaints to state and city agencies complaining about the proliferation of short-term rentals, primarily in New York City. These complaints raise a host of grievances with short-term rentals, including safety, noise, and a failure to abide by building rules. The excerpts below—which are anonymized to protect the complainants—highlight a few of the broad themes found in these complaints.

### Complaint Submitted October 13, 2013 (NYAG):

*[I live in] a Class A, partly rent-stabilized, partly market-rent four-flight walk-up tenement building of a lower Manhattan neighborhood. The apartment on the 1st floor being rented out as a hotel suite... The [temporary renters] apparently [do not] have key to side yard to dispose of garbage so was dumping it on street in front. After we complained by leaving notes a maid service began to appear every few days to clean the apartment... We urged management to put an end to illegal hotel rental. In July, 2012 [an apartment in the building] was burglarized of all her grandmother's jewelry in what appeared to be an inside job. Meanwhile, I began to notice a revolving door in the apartment beneath mine. This morning, another neighbor concerned about the erosion of Class A apartments found on line [the apartment in question] being [listed] on Airbnb. It appears that [numerous other apartments my block have also been] listed on Airbnb... Safety, building security, quiet enjoyment of our homes, any sense of community are under assault: please investigate.*

### Complaint Submitted October 14, 2013 (NYAG):

*I write to ask you to take the strongest enforcement action possible against the proliferation of illegal hotels in our neighborhoods facilitated openly by the website Airbnb. I live in a middle class, northern Brooklyn neighborhood and about one and a half years ago I spent almost one entire hellish year battling an illegal hotel operating in the apartment below me. I called countless [City agencies] but to no avail. The person who operated that site had numerous others throughout the city. It was a health and safety risk and the proprietor threatened me with physical force for reporting her and the landlord at the time (the building has since been sold) was a willing accomplice as he hoped to get higher rent from a hotel than from legal tenants. Rent in our neighborhood has become near unaffordable for us and it is partly because people can charge such high rents to illegal hotels.*

### Complaint Submitted March 11, 2014 (NYAG):

*I am writing to bring your attention to a business that is using Airbnb to illegally rent out its apartments via Airbnb, essentially operating as a hotel chain masquerading as individuals renting apartments. The company in question is [presents itself as a legitimate short-term rental service] using several pseudonyms. From what I can tell, they are buying NY tenement apartments and*

*renting them out to tourists. Among many other problems, this has the effect of forcing long-standing residents out of their apartments to serve tourists.*

**Complaint Submitted March 12, 2014  
(Office of New York Senator Elizabeth Kruger):**

*I am 41 year old resident of New York City [and hold a lease in a] building with three apartments in Northern Brooklyn... Since October of 2010 I have confronted the problem of [the tenant in the unit above mine] renting the apartment for tourists. They use the Airbnb [website]. At first I got really frightened of having transient strangers entering and exiting the building with so much frequency, then I kind of got used to it, but never felt comfortable with the circumstances. Besides, my life and the life of my roommates is constantly disrupted with the noise from upstairs neighbor with groups of people making heavy noise, especially during the night. We have had property stolen from the basement, lost deliveries left inside the building, the front door was once vandalized and the list of incidents goes on... The host accommodates up to four people in each room (for a total of 12 people at the same time). [For] at least one year the host has [been offering short-term rentals and does] not live in the building but with his girlfriend somewhere else in the neighborhood. To rent the rooms he comes to meet his clients, gives them the keys to the building, and then leaves...*

**Complaint Submitted March 21, 2014  
(New York City Office of Special Enforcement):**

*[I just wanted to give you] an update on two apartments [being used as illegal hotels]. Both apartments are owned by the same landlord... and both apartments are almost continuously occupied [for short periods by groups of tourists from all over the world]... We also see a cleaning person and the Airbnb hostess visiting both apartments with supplies. I have met every family so far (except the one that moved in today) to let them know about the situation. I am hoping that some of them mention the fact of this being an illegal rental on the Airbnb website, or to the hostess... All of the felt something was amiss when the hostess failed to meet them in person and had them pick up the keys from someone else... Our lives have been seriously affected by these illegal activities*



NEW YORK STATE OFFICE

of the

ATTORNEY  
GENERAL





Portland, OR

Attachment 1

ORDINANCE No.

**SUBSTITUTE**

**18 6 7 3 6**

Improve land use regulations related to accessory short-term rentals through the Regulatory Improvement Code Amendment Package 6 (RICAP 6) (Ordinance; Amend Title 33, Planning and Zoning, Title 3, Administration, and Title 6, Special Taxes)

The City of Portland Ordains:

Section 1. The Council finds:

**General Findings**

1. This project is part of the Regulatory Improvement Workplan, an ongoing program to improve City building and land use regulations and procedures. Each package of amendments is referred to as RICAP (Regulatory Improvement Code Amendment Package), followed by a number. This ordinance pertains to the amendment items addressing short-term rentals contained in RICAP 6 and identified as items 12-14.
2. During the spring and summer of 2013, staff from the Bureau of Planning and Sustainability (BPS) and the Bureau of Development Services (BDS) worked together to develop a draft work plan for RICAP 6. Potential code amendments were drawn from a database that contains regulatory improvement requests.
3. On July 25, 2013, notice was sent to all neighborhood associations, neighborhood coalitions, and business associations in the city of Portland, as well as other interested parties, to notify them of the Planning and Sustainability Commission hearing on the *RICAP 6 Proposed Workplan*.
4. On August 13, 2013 the Planning and Sustainability Commission held a hearing and adopted the RICAP 6 work plan. The adopted work plan included 42 potential code amendment items. Three items were added after August 13, 2013, for a total of 45 potential code amendment items.
5. During the summer and fall of 2013, BPS staff conducted research, met with neighborhood land use chairs, and worked with BDS staff and staff from other City agencies to develop a proposal for each of the 45 potential code amendments. Thirty-four of the initial 45 work plan items were determined to warrant an amendment to the City Code; 11 of the initial 45 were determined to not warrant an amendment to City Code. Thirty-one of the 34 proposed code amendment items relate to technical or minor policy issues, and three of the code amendment items relate to short-term rentals. This ordinance pertains to the three items related to short-term rentals (items 12-14); the remaining items are the subject of a separate ordinance.
6. On March 18, 2014 notice of the proposed action was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-018-0020 and ORS 197.610.
7. On March 20, 2014 notice of the RICAP 6 proposal and the April 22, 2014 Planning and Sustainability Commission hearing on the proposal was mailed to all neighborhood associations, neighborhood coalitions, and business associations in the city of Portland, as well as other interested persons, as required by ORS 227.186 and PCC 33.740.

8. On April 22, 2014 the Planning and Sustainability Commission held a hearing on the *RICAP 6 Proposed Draft*. The Planning and Sustainability Commission made four amendments to the proposal, and then voted to recommend approval of the RICAP 6 proposed code amendment items and to forward them to City Council for adoption.
9. On May 13, 2014 notice of the June 4, 2014 City Council hearing on RICAP 6 was mailed to all who presented testimony orally or in writing to the Planning and Sustainability Commission and provided a name and address, those who asked for notice, and other interested parties.

### Findings on Statewide Planning Goals

10. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with state land use goals. Only the stated goals addressed below apply.
11. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided several opportunities for public involvement. The amendments are supportive of this goal for the following reasons:
  - a) Staff from the Bureau of Planning and Sustainability met with the Development Review Advisory Committee (DRAC) and the land use chairs of the city's neighborhood coalition offices on July 15, 2013, to review potential items for inclusion in the RICAP 6 work plan.
  - b) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Proposed Workplan* was made available to the public for review on July 24, 2013. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.
  - c) The Planning and Sustainability Commission held a public hearing on the RICAP 6 proposed work plan on August 13, 2013. Notice of the hearing was mailed to all neighborhood associations, neighborhood coalitions, business associations, and other interested parties on July 25, 2013.
  - d) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Discussion Draft* was made available to the public for review on January 6, 2014. The report was posted on the City's regulatory improvement program website, and mailed to all who requested a copy.
  - e) Notice of the RICAP 6 discussion draft was also mailed on January 8, 2014 to over 750 recipients, including neighborhood associations, neighborhood coalitions, business associations, and other interested parties. The notice included the dates, times and locations of neighborhood association or neighborhood coalition meetings, and a BPS sponsored open house, during which project staff presented the draft for discussions and questions.
  - f) Project staff attended six neighborhood coalition meetings, and two neighborhood association meetings between January 6, and February 21, 2014. The RICAP 6 discussion draft report was presented and discussed at each of these meetings.

- g) Project staff presented the RICAP 6 discussion draft report at one Design Commission meeting, one Historic Landmarks Commission meeting, and one Planning & Sustainability Commission meeting.
- h) Project staff were available to discuss the RICAP 6 discussion draft at an open house held on February 11, 2014 from 5:00 pm to 7:30 pm.
- i) On March 18, 2014 notice of the proposed action was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-018-0020 and ORS 197.610.
- j) *The Regulatory Improvement Code Amendment Package 6 (RICAP 6): Proposed Draft* was made available to the public for review on March 21, 2014. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.
- k) The Planning and Sustainability Commission held a public hearing on the RICAP 6 proposed draft on April 22, 2014. Notice of the hearing was mailed to the regional transit agency, Metro, the Oregon Department of Transportation, all neighborhood associations, neighborhood coalitions, business associations, affected bureaus, and other interested parties on March 20, 2014, as required by ORS 227.186 and PCC 33.740. The Planning and Sustainability Commission made four amendments to the proposed draft and voted to recommend the amendments be approved and forwarded to the city council for adoption.
- l) *The Regulatory Improvement Code Amendment Package 6 (RICAP 6): Recommended Draft* was made available to the public for review on May 19, 2014. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.
- m) City Council held a public hearing on the RICAP 6 recommended draft on June 4, 2014. Notice of the hearing was mailed on May 13, 2014 to all who testified orally or in writing at the Planning and Sustainability Commission hearing, and to other persons who requested such notice.

The findings addressing Portland Comprehensive Plan Goal 9, Citizen Involvement, and its related policies also demonstrate consistency with this goal.

12. **Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision. The process for identifying and adopting the RICAP 6 accessory short-term rental amendments (RICAP items 12-14) supports this goal for the following reasons:
  - The process followed all procedures required by Title 33.740, Legislative Procedures, OAR 660-018-0020, ORS 227.186 and ORS 197.610;
  - The amendments meets relevant goals and policies of the City's adopted Comprehensive Plan as described in the findings for Portland's Comprehensive Plan Goals and Policies;
  - The amendments are based on relevant facts in the record including an estimate of the number of accessory short-term rentals being operated in the city; the number of complaints received about unauthorized accessory short-term rentals; a review of policies and regulations related to accessory short-term rentals being implemented in New York City, NY, San Francisco, CA, Cannon Beach, OR, Ashland, OR, Austin, TX, and Amsterdam, The Netherlands; a survey of accessory short-term rental operators in Portland conducted by Airbnb; a review of several accessory short-term rental websites; a review of relevant City and State regulations pertaining to lodgings and lodging taxation; and testimony in the record.

See also findings addressing Portland Comprehensive Plan Goal 1, Metropolitan Coordination, and its related policies and objectives.

13. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources**, requires the conservation of open space and the protection of natural, historic and scenic resources. These amendments are consistent with this goal because they eliminate the need for a conditional use review for accessory short-term rental facilities that rent up to two bedrooms to overnight guests. By eliminating the cost and time associated with a conditional use review, the amendments facilitate use of unused bedrooms in a historic home as an accessory short-term rental, and the income generated from the accessory use may allow the owner to invest in maintaining, and therefore protecting, the historic home. The findings for Portland Comprehensive Plan Policy 2.21, Existing Housing Stock, also demonstrate that the amendments are consistent with this goal.
14. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity. These amendments are consistent with this goal by removing a cost barrier to establishing a Type A accessory short-term rental in a house, attached house, accessory dwelling unit, duplex, or manufactured home on its own lot, thereby facilitating the use of these types of dwelling units for economic activity. The findings for Portland Comprehensive Plan Goal 5, Economic Development also demonstrate that the amendments are consistent with this goal.
15. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The findings for Portland Comprehensive Plan Goal 4, Housing, and relevant sub-policies and objectives, demonstrate that the amendments are consistent with Goal 10.
16. **Goal 12, Transportation**, requires provision of a safe, convenient, and economic transportation system. The findings for Portland Comprehensive Plan Goal 6, Transportation, and relevant sub-policies demonstrate that the amendments are consistent with Goal 12.
17. **The Oregon Transportation Planning Rule (TPR)** was adopted in 1991 and amended in 1996, 2005 and 2012 to implement State Goal 12. The TPR requires certain findings if a proposed Comprehensive Plan Map amendment, zone change, or regulation will significantly affect an existing or planned transportation facility.  
  
These amendments will not have a significant effect on existing or planned transportation facilities because, as demonstrated in the findings for Portland Comprehensive Plan Goal 6 and related sub-policies, the amendments ensure that the number of trips generated by a household living use with an accessory short-term rental use will not exceed the number of trips generated by a household living use without an accessory short-term rental.
18. **Goal 14, Urbanization**, requires provision of an orderly and efficient transition of rural lands to urban use, the efficient use of land, and the provision of livable communities. The findings for Portland Comprehensive Plan Goal 2, Urban Development, Goal 3, Neighborhoods, and their relevant sub-policies demonstrates that these amendments provide for livable communities and are therefore consistent with this goal.

## Findings on Metro Urban Growth Management Functional Plan

19. The following elements of the Metro Urban Growth Management Functional Plan are relevant and applicable to the accessory short-term rental amendments.

20. **Title 1, Housing Capacity**, requires cities and or counties to maintain or increase its housing capacity. This requirement is to be generally implemented through city-wide analysis based on calculated capacities from land use designations. These amendments are consistent with this title because they do not allow conversion of a housing unit in a residential zone to a motel or other commercial use as some testimony suggests. The amendments ensure that the accessory short-term rental use remains accessory to the primary household living use on a site. The findings for Portland Comprehensive Plan Goal 4, Housing, and relevant sub-policies also demonstrate that these amendments are consistent with this title.
21. **Title 4, Industrial and other Employment Areas**, seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. These amendments do not increase the type or scale of non-industrial uses allowed in RSIAs, Industrial or General Employment zones for the reasons stated below:
- The amendments do not allow establishment of a primary household living use in the Industrial or Employment zones. The amendments only allow establishment of an accessory short-term rental in a house, attached house, accessory dwelling unit, duplex, or manufactured home on its own lot in the Industrial and Employment zones in cases where the dwelling also has a legally established, non-conforming primary household living use. The amendments also contain provisions that limit the scale of the non-industrial activity including a limit on the total number of guests and residents occupying a dwelling unit to no more than the number allowed for a household, and a limit on the number of bedrooms that can be rented to overnight guests;
  - A short-term rental (temporary lodging) can also be considered a Retail Sales and Service use, and Retail Sales and Service uses are currently allowed outright in an Industrial or General Employment zone. Up to one Retail Sales and Service use, with maximum of 3,000 square feet, is allowed in an IGI zone, up to four Retail Sales and Service uses, with a maximum of 3,000 square feet each, are allowed in the IG2 and IH zones, and up to 60,000 square feet of Retail Sales and Service use, or up to an FAR of 1:1, is allowed in the EG zones.

For these reasons, the amendments do not conflict with Title 4. The findings addressing Portland Comprehensive Plan Goal 6, Transportation, also demonstrate that the amendments do not conflict with Title 4.

22. **Title 7, Housing Choice**, ensures opportunities for affordable housing at all income levels, and calls for a choice of housing types. The findings for Portland Comprehensive Plan Goal 4, Housing, Policy 4.2, Maintain Housing Potential, Policy 4.8, Regional Housing Opportunities, Policy 4.9, Fair Housing, Policy 4.10, Housing Diversity, and 4.11, Affordable Housing demonstrate that the amendments are consistent with this title.
23. **Title 12, Protection of Residential Neighborhoods**, calls for protecting the region's existing residential neighborhoods from air and water pollution, noise and crime, and providing adequate levels of public services. Testimony in the record asserts that the amendments will introduce "stranger danger" into single-dwelling neighborhoods and render Neighborhood Watch programs ineffective. No evidence was provided to demonstrate that allowing Type A accessory short-term rentals without a conditional use review will reduce the safety of, or increase crime in, residential neighborhoods. On the contrary, the City of Portland Crime Prevention Program Manager provided written testimony stating the following: "The community member who has stated that short term rentals would destroy her Neighborhood Watch because it would bring strangers to her street misses

the point of our instructions to get to know one's neighbors. The point of knowing one's neighbors is not to exclude everyone else, but to have a network. A neighborhood network can thrive whether or not guests or strangers are present. In short, I do not agree with the argument that short term rentals would nullify existing Neighborhood Watches." The Council finds the Program Manager's testimony is credible and persuasive that the amendments are consistent with Title 12. The findings for Portland Comprehensive Plan Goal 8, Environment demonstrate that the amendments will limit potential impacts from noise.

## Findings on Portland's Comprehensive Plan Goals

24. The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to the accessory short-term rentals amendments.

### GOAL 1, METROPOLITAN COORDINATION

25. **Goal 1, Metropolitan Coordination**, calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives and plans. The amendments are consistent with this goal because notification of the proposal, and an opportunity to provide comment at a public hearing before the Planning and Sustainability Commission, was provided to the Oregon Department of Land Conservation and Development per ORS 197.610, and to Metro, Tri-Met, and the Oregon Department of Transportation per 33.740.020. In addition, nothing within these amendments changes or affects the Urban Growth Boundary, Urban Planning Area Boundary, or Urban Services Boundary.

### GOAL 2, URBAN DEVELOPMENT

26. **Goal 2, Urban Development, and Policy 2.2, Urban Diversity** call for maintaining Portland's role as the major regional employment and population center through public policies that encourage expanded opportunity for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments are consistent with this goal because they encourage expanded opportunity for home-based jobs, while retaining the character of existing residential neighborhoods. An accessory short-term rental is where a long-term resident rents bedrooms in their dwelling to overnight guests. Accessory short-term rentals are currently allowed in houses in residential zones as a conditional use. Approval of a facility currently requires a quasi-judicial conditional use review. These amendments establish Type A (one or two bedrooms) and Type B (three to five bedrooms) accessory short-term rentals, and eliminate the need for a conditional use review for facilities that rent up to two bedrooms to overnight guests. Operating an accessory short-term rental is a home-based occupation, and eliminating the need for a \$4,130 conditional use review (CU fee as of May 2014) in order to establish a Type A accessory short-term rental will encourage this type of home-based occupation. In addition to encouraging home-based jobs, the amendments include provisions that address several common elements of neighborhood character such as use, intensity, and accessory home occupations:
- **Use.** The amendments do not allow a home in a neighborhood to be converted to a full-time, short-term rental. The amendments ensure that the accessory short-term rental remains an accessory use to a primary household living use on a site. This is accomplished by requiring that a long-term resident live in the dwelling unit in which the rooms will be rented. On sites that have an accessory dwelling unit (ADU), the resident may reside in the primary dwelling and rent rooms in the ADU or vice versa;

- **Intensity.** The amendments limit a Type A accessory short-term rental to offering no more than two bedrooms to overnight guests, and require a conditional use review, which includes notice and a public hearing, for facilities that rent more than two bedrooms per night;
- **Intensity.** The amendments limit the total number of guests and residents occupying a dwelling with an accessory short-term rental to no more than the number allowed for a household (per 33.910.030; one or more persons related by blood, marriage, legal adoption, guardianship, or domestic partnership plus not more than 5 other persons). This provision ensures that the number of residents and guests coming and going from the home with bedrooms rented on a short-term basis does not exceed the number of residents allowed to come and go from other homes in the neighborhood without an accessory short-term rental;
- **Accessory home occupation.** The amendments prohibit the establishment of a Type B accessory home occupation in a dwelling unit with an accessory short-term rental, and prohibiting non-resident employees and commercial meetings in a Type A accessory short-term rental. A Type B accessory home occupation is one in which the resident uses their home as place of work, and has one employee or up to eight customers per day. This provision is intended to limit potential impacts that additional trips to and from a dwelling with an accessory short-term rental may have on the surrounding neighborhood;

Finally, the amendments allow the Type A accessory short-term rental permit to be revoked for failure to comply with the regulations of 33.207.

**27. Policy 2.9, Residential Neighborhoods,** calls for allowing for a range of housing types to accommodate increased population growth while improving and protecting the city's residential neighborhoods. The amendments are consistent with this policy because they continue to allow a range of housing types in the city, and they include provisions that protect the integrity of the city's residential neighborhoods as described in the findings for Goal 2, Urban Development. Testimony in the record asserts that the amendments do not protect residential neighborhoods because they do not limit accessory short-term rentals to owner-occupied dwelling units. The amendments will allow either the property owner or a long-term renter to rent bedrooms to overnight guests as long the dwelling unit has a primary resident (defined as someone who occupies the dwelling unit for at least 270 days per year), and, except in the case of an ADU, the primary resident lives in the dwelling unit in which the rooms will be rented. However, there is no evidence in the record to support the claim that allowing a long-term renter to establish an accessory short-term rental will compromise neighborhood safety, destabilize residential neighborhoods, or otherwise fail to protect the city's residential neighborhoods. On the contrary, the Planning Commission received testimony from 36 people who rent bedrooms to overnight guests, and 14 of the 36 testified that the additional income has allowed them to stay in their homes, which arguably contributes to neighborhood stability. This issue was discussed extensively at the Planning and Sustainability Commission hearing, and the Commissioners could find no rational basis to treat long-term renters differently than resident owners.

**28. Policy 2.14, Industrial Sanctuaries,** calls for providing industrial sanctuaries and encouraging the growth of industrial activities by preserving industrial land primarily for manufacturing purposes. For the reasons stated below, these amendments are consistent with this policy because they do not increase the type or scale of non-industrial uses allowed in the Industrial Sanctuaries:

- The amendments do not allow establishment of a primary household living use in the Industrial or Employment zones. The amendments only allow establishment of an accessory short-term rental in a house, attached house, accessory dwelling unit, duplex, or manufactured home in the Industrial and Employment zones in cases where the dwelling also has a legally established, non-conforming primary household living use. The amendments also contain provisions that limit the scale of the non-industrial activity including a limit on the total number of guests and



residents occupying a dwelling unit to no more than the number allowed for a household, and a limit on the number of bedrooms that can be rented to overnight guests;

- A short-term rental (temporary lodging) is currently allowed outright in the city's Industrial zones. Up one Retail Sales and Service use, with maximum of 3,000 square feet, is allowed in an IG1 zone, and up to four Retail Sales and Service uses, with a maximum of 3,000 square feet each, are allowed in the IG2 and IH zones.

The findings for Title 4 and Goal 6, Transportation, also demonstrate that the amendments are consistent with this policy.

29. **Policy 2.15, Living Closer to Work**, calls for locating greater residential densities near major employment centers, locating affordable housing close to employment centers, and encouraging home-based work where the nature of the work is not disruptive to the neighborhood. As described in the findings for Goal 2, Urban Development, the amendments encourage home-based work, and include provisions that will protect neighborhoods. Accessory short-term rentals are currently allowed as a conditional use in houses in residential zones. These amendments establish Type A and Type B accessory short-term rentals, and eliminate the need for a conditional use review in order to establish a Type A accessory short-term rental in a house, attached house, accessory dwelling unit, duplex, or manufactured home on its own lot. A Type A accessory short-term rental is one where no more than two bedrooms are rented on a short-term basis. A Type B accessory short-term rental allows renting up to 5 bedrooms to overnight guests, and will continue to require a conditional use review. Operating an accessory short-term rental is a home-based occupation, and the elimination of the conditional use review fee (\$4130 application fee as of May 2014) will encourage this type of job. The amendments also include provisions that limit disruption in the neighborhood:

- The amendments ensure that the short-term rental remains an accessory use to the primary household living use on the site by limiting the number of bedrooms rented, requiring that long-term primary resident live in the dwelling unit in which the rooms will be rented, and requiring that the dwelling unit be the long-term resident's primary residence;
- The amendments limit the total number of guests and residents occupying a dwelling unit to no more than the number allowed for a household. A household is defined as one or more persons related by blood, marriage, legal adoption, guardianship, or domestic partnership plus not more than 5 other persons (per 33.910.030). This limitation ensures that the number of residents and guests coming and going from a dwelling in which bedrooms are rented on a short-term basis does not exceed the number of residents allowed to come and go from other homes in the neighborhood that do not have an accessory short-term rental;
- The amendments include a requirement that the operator of the accessory short term rental notify neighbors and the property owner of the accessory use. The notice must describe the operation and the number of bedrooms to be rented to overnight guests, provide contact information, and describe how the regulations of 33.207 will be met. In addition, the notification must be updated every two years;
- The amendments prohibit the establishment of a Type B accessory home occupation in a dwelling unit with an accessory short-term rental. This will limit the impacts that more than one home-based accessory occupations could have on a neighborhood. A Type B accessory home occupation is one in which the resident uses their home as place of work, and has one employee or up to eight customers per day. Type A accessory home occupations where a resident uses their home as a home office but does not have employees or customers will continue to be allowed;
- The amendments prohibit non-resident employees and commercial meetings in a Type A accessory short-term rental; and
- The amendments allow a Type A accessory short-term rental permit to be revoked for failure to comply with the regulations of 33.207.

Testimony in the record asserts that the amendments do not support this policy because they will reduce the availability of long-term, affordable rental housing. The testimony is not relevant to Policy 2.15, which is focused on promoting, as its title states, living close to work. Policy 2.15 is not an affordable housing policy. In addition, no evidence was provided that demonstrates a relationship between allowing the type of short-term rentals the amendments will permit and the loss of long-term housing. The amendments do not allow a dwelling unit in a residential zone to be converted from a household living use to a commercial use; they only allow bedrooms in a home with a primary household living use to be rented on a short-term basis. The amendments require that a long-term resident live in the dwelling unit, limit the number of bedrooms that can be rented, and do not allow accessory short-term rentals in multi-dwelling structures (structures with 3 or more units). These provisions are intended to ensure that housing units, including long term rental housing units, are not removed from the market.

30. **Policy 2.21 Existing Housing Stock**, calls for providing full utilization of larger single-family homes with conditions that preserve the character of the neighborhood and prevent speculation. The amendments are consistent with this policy. Accessory short-term rentals are currently allowed in houses in residential zones as a conditional use. Approval of a facility requires a quasi-judicial conditional use review. These amendments eliminate the need for a conditional use review for facilities that rent up to two bedrooms to overnight guests. By eliminating the cost and time associated with a conditional use review, the amendments facilitate the full utilization of bedrooms in larger single-family homes. These amendments also preserve the character of the neighborhood, thus preventing speculation, because the amendments include provisions that ensure the short-term rental remains an accessory use to the primary household living use on a site. This is accomplished by:
- Ensuring that a long-term primary resident continue to live in the dwelling unit in which the accessory short-term rental will be established. The long-term resident must occupy the dwelling for at least 270 days per calendar year;
  - Limiting Type A accessory short-term rentals to offering no more than two bedrooms to overnight guests, and requiring a conditional use review, which includes notice and a public hearing, for facilities that rent more than two bedrooms per night;
  - Limiting the total number of guests and residents occupying a dwelling unit to no more than the number allowed for a household (per 33.910.030: one or more persons related by blood, marriage, legal adoption, guardianship, or domestic partnership plus not more than 5 other persons). This provision ensures that the number of residents and guests coming and going from a dwelling with an accessory short-term rental does not exceed the number of residents allowed to come and go from other homes in the neighborhood that do not have an accessory short-term rental;
  - Requiring that the operator of the accessory short term rental notify neighbors and the property owner of the accessory use. The notification must describe the operation and the number of bedrooms to be rented to overnight guests, provide contact information, and describe how the requirements of 33.207 will be met. In addition, the notification must be updated every two years;
  - Limiting the impacts from more than one home-based accessory occupations. The amendments prohibit the establishment of a Type B accessory home occupation in a dwelling unit with an accessory short-term rental. A Type B accessory home occupation is one in which the resident uses their home as place of work and has one employee or up to eight customers per day;
  - Prohibiting non-resident employees and commercial meetings in a Type A accessory short-term rental; and
  - Allowing the Type A accessory short-term rental permit to be revoked for failure to comply with the regulations of 33.207.

Testimony in the record states that allowing short-term rentals in single-dwelling neighborhoods will increase speculation. The testimony does not provide evidence to support the conclusion. The testimony posits that the “active turnover of users” will contribute to speculation. However, as stated above, the amendments limit the total number of residents and guests occupying the dwelling unit to the same number allowed to occupy a dwelling without an accessory short-term rental. Thus, the number of “users” coming and going from the dwelling can be no more than the number that can come and go from neighboring dwellings, and there is no evidence in the record to suggest that the number of trips made to and from a dwelling with an accessory short-term rental will be more than the number of trips made to and from a dwelling without an accessory short-term rental. In addition, as mentioned above, the amendments prohibit the establishment of a Type B accessory home occupation in a dwelling with an accessory short-term rental. A Type B accessory home occupation allows up to eight customers coming and going per day. Eliminating this allowance further reduces the number of potential trips that a dwelling with an accessory short-term rental could generate.

### GOAL 3, NEIGHBORHOODS

31. **Goal 3, Neighborhoods**, calls for preserving and reinforcing the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses and insure the city's residential quality and economic vitality. The amendments are consistent with this goal and preserve the stability of the city's neighborhoods for the reasons stated in the findings for Goal 2, Urban Development, the Goal 2 sub-policies, and the findings below.
32. **Policy 3.2, Social Conditions**, call for providing and coordinating programs to promote neighborhood interest, concern and security and to minimize the social impact of land use decisions. The amendments promote neighborhood interest and concern because they require the operator to notify neighbors before the accessory short-term rental is approved. The notification must include a description of the operation and the number of rooms to be rented to overnight guests. The notification must also include contact information for the operator and describe how the standards of the Title 33.207 will be met. This notification must be updated every two years. The amendments also address neighborhood concern and security because they include an amendment to Title 33.040.B.5 allowing the Type A accessory short-term rental permit to be revoked for failure to comply with the regulations of Title 33.207. If the permit is revoked, a new permit will not be issued to the operator at that residence for two years. Testimony in the record asserts that the amendments conflict with this policy because they do not provide full disclosure of the impacts of the use, make rental properties available mainly to “well-to-do Caucasian ambulatory tourists and visitors”, promote discrimination, and displace residents. No evidence was provided to support these conclusions. Additionally, the issues raised in the testimony are not relevant to the policy in question. Policy 3.2 is aimed at City programs that promote neighborhood interest, and is not aimed at discrimination or displacement.
33. **Policy 3.3 Neighborhood Diversity**, calls for promoting neighborhood diversity and security by encouraging a diversity in age, income, race and ethnic background within the City's neighborhoods. The amendments are consistent with this policy. The amendments eliminate the need for a conditional use review in order to establish a Type A accessory short-term rental. By eliminating the cost and time associated with a conditional use review, the amendments reduce barriers to establishing this type of home-based occupation. The income generated by the accessory short-term rental may help owners and renters reduce household expenses, including costs associated with rent or a mortgage. According to a survey of accessory short-term rental operators in Portland, the typical host earns an average of \$6,860 per year. Fourteen of the 36 operators of accessory short-term rental facilities who testified at the Planning and Sustainability Commission hearing stated that the income generated from the short-term rental allowed them to remain in their home during times of financial hardship.

Other testimony in the record suggests that the amendments conflict with this policy because they do not provide full disclosure of the impacts of the use, they make rental properties available mainly to “well-to-do Caucasian ambulatory tourists and visitors”, they promote discrimination, and displace residents. No evidence was provided to support these conclusions. As mention in the findings for Policy 3.2, Social Conditions, the amendments promote neighborhood interest and concern by requiring notification to neighbors, and local neighborhood and business associations, and by allowing a Type A accessory short-term rental permit to be revoked if the regulations of Title 33.207 are not met. Additionally, the findings for Policy 4.9, Fair Housing, demonstrate that the amendments do not promote discrimination. The amendments are intended to discourage unintended displacement of long-term residents because they do not allow a dwelling to be converted to a full time, short-term rental, they ensure that the short-term rental use remains accessory to a primary household living use on the site, and they ensure that only homes with long-term residents are allowed to accommodate overnight guests. The regulations specifically limit the number of bedrooms that can be rented on a short-term basis, and require that the a long-term resident occupy the dwelling where the rooms will be rented (except that on a site with an ADU, the resident may live in the primary dwelling and rent rooms in the ADU or vice versa).

34. **Policy 3.5, Neighborhood Involvement**, provides for the active involvement of neighborhood residents and businesses in decisions affecting their neighborhood, and calls for providing information to neighborhood and business associations which allows them to monitor the impacts of the Comprehensive Plan. The amendments support this policy because they require that neighborhood associations and business associations be notified when a Type A accessory short-term rental is established within their boundaries. The notification will provide the associations with contact information for the operator, a description of the operation and the number of rooms to be rented to overnight guests, and a description of how the operation meets the other standards of Title 33.207.

#### GOAL 4, HOUSING

35. **Goal 4, Housing**, calls for enhancing Portland’s vitality as a community at the center of the region’s housing market by providing housing of different types, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The amendments are consistent with this policy because they include provisions aimed at preserving housing, and the amendments accommodate the needs and preferences of current households. The amendments preserve housing by prohibiting the conversion of an entire housing unit in a residential zone to a motel or other commercial use as some testimony suggests. In all cases, an accessory short-term rental must be an accessory use to a primary household living use on a site. The regulations:
- Require that a long-term resident live in the dwelling unit in which the rooms will be rented. On sites that have an accessory dwelling unit (ADU), the resident may reside in the primary residence and rent bedrooms in the ADU or vice versa;
  - Require that the dwelling unit be the long-term resident’s primary residence;
  - Limit the number of bedrooms being rented to overnight guests to not more than two, and require a conditional use review for facilities that rent more than two bedrooms per night.

The amendments also accommodate the needs and preference of current households as expressed by people who provided testimony on the amendments to the Planning and Sustainability Commission. The Planning and Sustainability Commission received testimony from 36 people who rent a bedroom in their homes to overnight guests. Many of the 36 testified that renting a room to guests has allowed them to increase their income, and 14 of the 36 testified that the additional income has allowed them to stay in their homes.

36. **Policy 4.2, Maintain Housing Potential**, calls for retaining housing potential by requiring no net loss of land reserved for, or committed to, residential, or mixed-use. This policy is implemented by an approval criterion applied to quasi-judicial Comprehensive Plan Map Amendments that requires no net loss of potential housing units when a requested amendment is from a residential or the urban commercial Comprehensive Plan Map designation to a non-residential map designation (33.810.050.A.2). These amendments do not conflict with this policy because they do not amend, change, or undermine this approval criterion. Testimony in the record argues that the amendments conflict with this policy because they “effectively permit commercial uses in direct conflict with Housing Policy 4.2.” No evidence was provided to support this conclusion. As stated in the findings for Goal 4, Housing, the amendments do not allow housing units in residential zones to be converted from residential to commercial use. The amendments specifically require that the short-term rental be accessory to a primary household living use on a site and, as a result, help to maintain the residential character of existing neighborhoods. The regulations:

- Require that a long-term resident live in the dwelling unit in which the rooms will be rented. On sites that have an accessory dwelling unit (ADU), the resident may reside in the primary residence and rent bedrooms in the ADU or vice versa;
- Require that the dwelling unit have a primary, long-term resident (the long-term resident must occupy the dwelling for at least 270 days per calendar year);
- Limit Type A accessory short-term rentals to renting no more than two bedrooms to overnight guests, and requiring a conditional use review for facilities that rent more than two bedrooms per night.

37. **Policy 4.4 Housing Safety**, calls for ensuring a safe and healthy built environment and assisting in the preservation of sound existing housing and the improvement of neighborhoods. These amendments support this policy because they require the operator of an accessory short-term rental to verify that the bedrooms to be rented met the building code requirements for sleeping rooms at the time they were created or converted, that each floor on which a room will be rented has at least one carbon monoxide alarm, and each bedroom has a smoke detector that is interconnected with smoke detectors in an adjacent hallway. These requirements are intended to ensure that guest can exit the dwelling rapidly and safely in the event of a fire or other emergency.

These amendments also support the preservation of sound housing because they make it easier for a long-term resident to establish a Type A accessory short-term rental in the house, attached house, accessory dwelling unit, duplex, or manufactured home in which they live. A Type A accessory short-term rental is a home-based occupation that will generate income for the resident, increasing the chances that the resident will invest in improvements that keep the home sound. Testimony in the record argues that the amendments conflict with this policy because they will establish “commercial uses as a ‘by-right’ in all Single Dwelling residential zones...”, because they do not allow neighbors the opportunity to comment, and because they conflict with Neighborhood Watch activities promoted by the Office of Neighborhood Involvement. As stated in the findings for Policy 4.2, Maintain Housing Potential, these amendments do not allow housing units in a residential zones to be converted from residential to commercial use. As stated in the findings for Policy 3.2, Social Conditions and Policy 3.5, Neighborhood Involvement, the establishment of an accessory short-term rental requires notification to neighbors, neighborhood associations, and business associations. Issues raised in the testimony regarding Neighborhood Watch activities are not relevant to this policy, as Policy 4.4 is directed at the safety of the housing structure.

38. **Policy 4.5, Housing Conservation**, calls for restoring, rehabilitating, and conserving existing sound housing as one method of maintaining housing as a physical asset that contributes to an area’s desired character. These amendments are consistent with this policy because they eliminate a \$4,130 cost barrier (current cost of a Type II conditional use review) to establishing a Type A accessory short-

term rental. The absence of the fee may encourage more homeowners to take advantage of this type of home-based occupation, and increase their income by an average of \$6,860 per year (Airbnb survey, 2014). The income generated from the accessory short-term rental may allow the homeowner to restore or rehabilitate their home, thereby conserving existing sound housing.

39. **Policy 4.7, Balanced Communities**, call for livable mixed-income neighborhoods throughout Portland that collectively reflect the diversity of housing types, tenures (rental and ownership) and income levels of the region. Testimony in the record asserts that the amendments conflict with this policy and policy objective B, which calls for maintaining income diversity within neighborhoods by allowing a mix of housing types and tenures, and ensuring that income diversity is maintained over the long-term. The testimony posits that these amendments will “eviscerate the number of long-term rentals in these areas...”. No evidence was presented to support this conclusion. As stated in the findings for Goal 4, Housing, and Policy 4.2, Maintain Housing Potential, these amendments do not allow housing units in residential zones to be converted from residential use to commercial use, therefore these amendments do not conflict with this policy.
40. **Policy 4.8, Regional Housing Opportunities**, ensures opportunities for economic and racial integration throughout the region by advocating for the development of a range of housing options affordable to all income levels throughout the region. Policy 4.8, Objective A calls for advocating for a regional “fair share” strategy for meeting the housing needs of low, moderate, and higher-income households and people in protected classes in cities and counties throughout the region, and Policy 4.8 Objective B calls for supporting regulations and incentives that encourage the production and preservation of housing that is affordable throughout the region. Testimony in the record asserts that these amendments conflict with the policy and objectives because they will result in the “loss of long-term rental housing”. The testifier provided evidence for this conclusion by describing an Oregonian article (no date or title of the article was provided in the testimony) in which one accessory short-term rental operator stated that she would go back to renting her unused bedroom to a long-term renter if the short-term rental option is not allowed. On the contrary, at least one person who testified at the Planning and Sustainability Commission hearing stated that she preferred the flexibility and that comes with renting her bedroom on a short-term basis, and would not rent her room to a long-term renter. In addition, as stated in the findings for Goal 4, Housing, and Policy 4.2, Maintain Housing Potential, these amendments will not encourage the loss of long-term rentals because they do not allow the conversion of housing units in residential zones from a primary residential use to a primary commercial use.
41. **Policy 4.9, Fair Housing**, calls for freedom of choice in housing type, tenure, and neighborhood for all, regardless of race, color, age, gender, familial status, sexual orientation, religion, national origin, source of income or disability. Testimony in the record asserts that these amendments conflict with this policy and its objectives because “Short Term Rentals... become an unregulated market for discriminatory rental practices”. City Code Title 23.01 and Oregon Revised Statute 659A.403 prohibit discrimination based on race, religion, color, sex, sexual orientation, gender identity, national origin, marital status, familial status, age if over 18, or disability in places of public accommodation, such as lodgings, and in the selling, leasing or renting of real property. This ordinance does not reduce or nullify in any way the prohibition of discrimination contained in City Code Title 23.01 or ORS 659A.
42. **Policy 4.10, Housing Diversity**, promotes the creation of a range of housing types, prices, and rents to 1) create culturally and economically diverse neighborhoods; and 2) allow those whose housing needs change to find housing that meets their needs within their existing community. Testimony in the record posits that the amendments conflict with this policy and its objectives because they will cause housing types such as accessory dwelling units, manufactured homes, and individual bedrooms to be displaced. Title 33.910 defines residential structure types as the following: accessory dwelling



unit, attached duplex, attached house, duplex, group living structure, house, houseboat, manufactured dwelling, multi-dwelling development, multi-dwelling structure, single-room occupancy housing, and triplex. An individual room within a dwelling unit is not identified as a housing type. These amendments allow a long-term resident living in a house, attached house, accessory dwelling unit, duplex, or manufactured home on its own lot to rent rooms within the home to overnight guests. In the case of a site with accessory dwelling unit (ADU), the amendments allow the resident to live in the house, attached house, or manufactured home on its own lot and rent rooms in the ADU or vice versa (and ADU is not allowed with a duplex). In either case, the number of bedrooms that can be rented on a short-term basis and the number of total residents and guest on the site is limited. Furthermore, as stated in the findings for Goal 4, Housing, and Policy 4.2, Maintain Housing Potential, these amendments will not cause housing types to be displaced because they do not allow housing units in residential zones to be converted from a primary residential use to a primary commercial use.

43. **Policy 4.11 Affordability**, promotes the development and preservation of quality housing that is affordable across the full spectrum of household incomes. The amendments are consistent with this policy because the change to the accessory short-term rental regulations will not affect the supply of needed affordable housing for the following reasons:
- The regulations do not allow conversions of needed housing in residential zones from a residential use to a commercial use. The amendments ensure that the primary use of the dwelling remains household living. The regulations allow a long-term resident to rent unused bedrooms within their primary residence to overnight guests, and the regulations limit the number of bedrooms that can be rented on a short-term basis.
  - In many cases a conditional use review will no longer be required, and the absence of a quasi-judicial application fee may well increase the number of householders establishing accessory short-term rentals. Testimony in the record asserts that the ability to receive income from overnight guests may increase the ability of long-term residents to afford the cost of maintaining their homes or remain in their home during times of financial struggle.
  - Any economic effects of the amended regulations are limited to lowering the entrance costs to short-term rentals by eliminating the cost of a conditional use review (\$4,130 application fee). The amended regulations will require a permit fee and the installation of interconnected smoke detectors plus a carbon monoxide detector, costs that are together unlikely to exceed \$1,000. Assuming that all the reduced entrance costs fully translate to a corresponding increase in the value of residential property, this increase is limited to less than \$4,130. The median home price in Portland is \$285,000, while the mean home price in Portland is \$448,778 ("Portland Market Trends" 2014). A \$4,000 increase in price is a 1.4 percent increase in the median price, and a .08 percent increase in the mean price, not enough to render affordable housing unaffordable.
  - Home Forward (formerly Housing Authority of Portland) is a government agency that owns homes and makes them available to rent by households earning less than sixty-percent of median metropolitan statistical area income. Rental agreements for these homes always contain a prohibition on subletting that will prohibit accessory short-term rentals. The amendments will therefore not affect the affordability of this publically owned housing. In addition, they will not affect affordable housing obtained through the Housing Choice Voucher Program funded by the U.S. Department of Housing and Urban Development and administered by Home Forward. This program is commonly referred to as Section 8, and it provides rent assistance to low-income residents. The assistance voucher can be used for renting an apartment or a house, but it cannot be used to rent a room in a house.

Testimony in the record asserts that the amendments conflict with Policy 4.11 because they permit owners to raise rents astronomically, and encourage the reduction of available housing. No evidence was provided to support this conclusion. Nothing in the existing zoning regulations addresses rental rates or prevents owners from raising rent. Rental rates are driven by conditions in the marketplace; many factors affect these conditions and therefore rental rates. The amendments eliminate the need for a conditional use review in order to establish a Type A accessory short-term rental. The cost of a conditional use review is currently \$4,130 dollars. There is no evidence in the record to support the assumption that by removing the requirement for a conditional use review, rental rates will go up citywide. However, if rental rates were to increase commensurate with the decrease in cost for a conditional use review (\$4,130), the amount a resident could generate from an accessory short-term rental (\$6,860; Airbnb survey 2014) exceeds the increase in rent. Finally, the income generated by the accessory short-term rental may help reduce household expenses, including costs associated with rent or a mortgage, thereby helping to make the housing more affordable.

44. **Policy 4.14 Neighborhood Stability**, calls for neighborhood stability by promoting: 1) a variety of homeownership and rental housing options; 2) security of housing tenure; and 3) opportunities for community interaction. As detailed in the findings for Goal 2, Urban Development, Policy 2.15, Living Close to Work, Policy 2.21, Existing Housing Stock, Policy 3.2 Social Conditions, Policy 3.5, Neighborhood Involvement, and Goal 4, Housing, the amendments promote neighborhood stability by ensuring that the short-term rental use remains accessory to a primary household living use on a site, preventing the conversion of a dwelling in a residential zone to a full-time, short-term rental, requiring notification of the establishment of an accessory short-term rental to neighbors and local neighborhood and business associations, and allow the accessory short-term rental permit to be revoked for failure to comply with the regulations of Title 33.207. Policy 4.14, Objective H calls for enabling people who are elderly to remain in their own neighborhoods as their needs change. These amendments support that objective because they remove a cost barrier to establishing a Type A accessory short-term rental. The reduced cost may allow elderly people to more easily enter into the accessory short-term rental market, and the income generated from the short-term rental may allow the elderly person to maintain their home and/or remain in their home.

Testimony in the record asserts that the amendments conflict with this policy and its objectives because they will replace long-term rentals, make Neighborhood Watch programs ineffectual, and destroy a sense of safety. No evidence was provided to support these conclusions. As demonstrated above and in the findings for Title 12, Protection of Residential Neighborhoods, Policy 3.2, Social Conditions, Policy 3.5, Neighborhood Involvement, Goal 4, Housing, Policy 4.2, Maintain Housing Potential, Policy 4.10, Housing Diversity, and Policy 4.11, Affordability, these amendments do not encourage the loss of long-term rentals, and they do facilitate communication between the operator of an accessory short-term rental and neighbors, and they protect residential neighborhoods.

## GOAL 5, ECONOMIC DEVELOPMENT

45. **Goal 5, Economic Development**, calls for fostering a strong and diverse economy which provides a full range of employment and economic choices for individuals and families in all parts of the city. As described in the findings for Goal 2, Urban Development, and Policy 2.15, Living Close to Work, the amendments are consistent with this goal because they encourage expanded opportunity for home-based jobs. An accessory short-term rental is where a long-term resident rents bedrooms in the dwelling in which they reside to overnight guest. An accessory short-term rental use is currently allowed in residential zones as a conditional use, and approval of an accessory short-term rental facility requires a quasi-judicial conditional use review. These amendments establish Type A (one or two bedrooms) and a Type B (three to five bedrooms) accessory short-term rental types, and eliminate the need for a conditional use review in order to establish a Type A facility in a house,



attached house, accessory dwelling unit, duplex, or manufactured home on its own lot. A Type B facility will continue to require a conditional use review. Operating an accessory short-term rental is a home-based occupation, and the elimination of the \$4,130 conditional use review application fee (as of May 2014) will make entry into this type of work less costly, and therefore encourage this type of home-based job. According to a survey of accessory short-term rental host in Portland who use the Airbnb website, the average annual income generated from an accessory short-term rental is \$6,860 (Airbnb survey 2014).

## GOAL 6, TRANSPORTATION

46. **Goal 6, Transportation**, calls for developing a balanced, equitable, and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility. These amendments are consistent with this goal because they ensure that the potential number of trips generated by an accessory short-term rental will not exceed the number of trips that could be generated by a household living use without an accessory short-term rental. The amendments include a provision that limits the total number of guests and residents staying in a home with an accessory short-term rental to no more than the number of residents allowed to reside in a home without an accessory short-term rental. In addition, the amendments potentially reduce the number of trips that could be generated by an home with an accessory short-term rental because they prohibit the resident in a home with a Type A accessory short-term rental from also operating a Type B accessory home occupation. A Type B accessory home occupation is one in which the operator has one employee or up to eight customers per day. By prohibiting a Type B accessory home occupation, the potential number of trips to and from a home in a residential zone is reduced.

Testimony at the Planning and Sustainability Commission hearing raised concerns about parking associated with an accessory short-term rental. As already mentioned, an accessory short-term rental can have no more people staying in the home than can reside or stay in a home without an accessory short-term rental, therefore the number of cars being parked in association with a home that operates an accessory short-term rental will be no more than should be expected for a home without an accessory short-term rental. In addition, several operators of accessory short-term rentals who testified at the Planning and Sustainability Commission hearing suggested that many of their guests do not have a car. One operator said that fewer than one-half of their guest have had a car, while another operator stated that more than 80 percent of their guests did not have a car.

47. **Policy 6.12, Regional and City Travel Patterns**, calls for supporting the use of the street system consistent with its state, regional, and city classifications and its classification descriptions. Objective B calls for minimizing the impacts of interregional and long intraregional trips on Portland neighborhood and commercial areas, while supporting the travel needs of the community. These amendments are consistent with this policy because, as stated in the findings for Goal 6, Transportation, they ensure that the number of trips generated by a home with an accessory short-term rental will be no more than, and could potentially be fewer than, the number of trips generated by home without an accessory short-term rental.
48. **Policy 6.26, On-Street Parking Management**, calls for managing the supply, operations, and demand for parking and loading in the public right-of-way to encourage economic vitality, safety for all modes, and livability of residential areas. As stated in the findings for Goal 6, Transportation, these amendments are consistent with this policy because they will not increase the demand for parking in residential areas, and will in some cases reduce the potential demand for parking in residential areas.

## GOAL 8, ENVIRONMENT

49. **Goal 8, Environment**, calls for maintaining and improving the quality of Portland's air, water and land resources and protect neighborhoods and business centers from detrimental noise pollution. These amendments will limit potential impacts from noise because they include provisions intended to keep the activities occurring in association with an accessory short-term rental at the same level of activity expected from home without an accessory short-term rental. The amendments accomplish this by:

- Ensuring that the number of guests and residents staying in a home with an accessory short-term rental does not exceed the number of residents of a home without an accessory short-term rental;
- Prohibiting establishment of a Type B accessory home occupation in a home with an accessory short-term rental. A Type B accessory home occupation can have up to eight customers arriving and leaving from the home each day;
- Prohibiting commercial meetings (including weddings and banquets) in a home with a Type A accessory short-term rental; and
- Allowing the accessory short-term rental permit to be revoked for failure to comply with the requirements of Title 33.207.

For these reasons, the amendments are consistent with this goal.

## GOAL 9, CITIZEN INVOLVEMENT

50. **Goal 9, Citizen Involvement**, calls for improving the methods for citizen involvement in the on-going land use decision-making process, and providing opportunities for citizen participation in the implementation, review, and amendment of the Comprehensive Plan. Policy 9.1 calls for encouraging citizen involvement in land use planning projects by actively coordinating the planning process with relevant community organizations, through the reasonable availability of planning reports to city residents and businesses, and notice of official public hearings to neighborhood associations, business groups, affected individuals and the general public. The preparation of these amendments provided multiple opportunities for citizen involvement, in accordance with the legislative procedure requirements of Title 33.740, Legislative Procedure. The development of these amendments included the following notifications and opportunities for citizen involvement:

- a) Staff from the Bureau of Planning and Sustainability met with the Development Review Advisory Committee (DRAC) on July 15, 2013, and with the land use chairs of the city's neighborhood coalition offices on July 25, 2013 to review potential items for inclusion in the RICAP 6 work plan.
- b) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Proposed Workplan* was made available to the public for review on July 24, 2013. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.
- c) The Planning and Sustainability Commission held a public hearing on the RICAP 6 proposed work plan on August 13, 2013. Notice of the August 13 hearing was mailed to all neighborhood associations, neighborhood coalitions, business associations, and other interested parties on July 25, 2013.

- d) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Discussion Draft* was made available to the public for review on January 6, 2014. The report was posted on the City's regulatory improvement program website, and mailed to all who requested a copy.
- e) Notice of the RICAP 6 discussion draft was mailed January 8, 2014 to over 750 recipients, including neighborhood associations, neighborhood coalitions, business associations, and other interested parties. The notice included the dates, times and locations of neighborhood association or neighborhood coalition meetings, and a BPS sponsored open house, during which project staff presented the draft for discussion and questions.
- f) Project staff attended six neighborhood coalition meetings, and two neighborhood association meetings between January 6, and February 21, 2014. The RICAP 6 discussion draft report was presented and discussed at each of these meetings
- g) Project staff presented the RICAP 6 discussion draft report at one Design Commission meeting, one Historic Landmarks Commission meeting, and one Planning & Sustainability Commission meeting(s).
- h) Project staff were available to discuss the RICAP 6 discussion draft at an open house held on February 11, 2014 from 5:00 pm to 7:30 pm.
- i) On March 18, 2014 notice of the proposed action was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-018-0020 and ORS 197.610.
- j) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Proposed Draft* was made available to the public for review on March 21, 2014. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.
- k) The Planning and Sustainability Commission held a public hearing on the RICAP 6 proposed draft on April 22, 2014. Notice of the hearing was mailed to the regional transit agency, Metro, the Oregon Department of Transportation, all neighborhood associations, neighborhood coalitions, business associations, affected bureaus, and other interested parties on March 20, 2014, as required by ORS 227.186 and PCC 33.740. The Planning and Sustainability Commission made four amendments to the proposed draft.
- l) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Recommended Draft* was made available to the public for review on May 19, 2014. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.
- m) City Council held a public hearing on the RICAP 6 recommended draft on June 4, 2014. Notice of the hearing was mailed to all those who testified orally or in writing at the Planning and Sustainability Commission hearing, and to other persons who requested such notice, on May 13, 2014.

The findings for Statewide Planning Goal 1, Citizen Involvement also demonstrate compliance with this goal and policy.

Testimony in the record asserts that these amendments fail to satisfy this goal and policy. As described above, the process to adopt these amendments followed all requirements of Title 33.740, Legislative Procedures, therefore Goal 9 and Policy 9.1 are satisfied.

## GOAL 10, PLAN REVIEW AND IMPLEMENTATION

51. **Policy 10.10, Amendments to the Zoning and Subdivision Regulations**, requires amendments to the zoning and subdivision regulations to be clear, concise, and applicable to the broad range of development situations faced by a growing urban city. Objective A calls for promoting good planning by effectively and efficiently implementing the Comprehensive Plan, addressing present and future land use problems, balancing the benefits of regulations against the cost of implementation and compliance, and assuring that Portland remains competitive with other jurisdictions as a location in which to live, invest and do business. The amendments are consistent with this policy and its objectives for the following reasons:

- They address a development situation that has been growing in Portland. The number of short-term rentals occurring in Portland has increased substantially. In May 2014, Bureau of Planning and Sustainability found over 1,600 short-term rental listings on one website that facilitates peer-to-peer short-term rentals, up from 107 in January 2011;
- They address a present land use problem. Accessory short-term rentals are currently allowed in residential zones in Portland as a conditional use. Twenty-four have been approved through a conditional use review since 2004 date. With only 24 having been approved, it is likely that the majority of short-term rentals operating in Portland have not received proper approvals. In 2013, the Bureau of Development Service's Code Compliance unit received 38 complaints regarding unauthorized accessory short-term rentals—38 out of a total 1083 complaints. The number of short-term rental listings in Portland on one short-term rental website was over 1,600 in May 2014—a number that far exceeds the total number of complaints investigated by the staff of the Code Compliance unit. Therefore, the total number of accessory short-term rentals operating without approval in Portland presents a present land use problem that needs to be remedied;
- They clarify and streamline regulations that have not been updated since 2004; and
- They address the cost of implementation and compliance by eliminating the need for a conditional use review for a Type A accessory short-term rental.

NOW, THEREFORE, the Council directs:

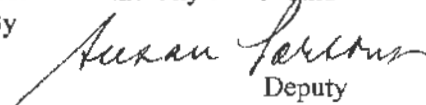
- a. Adopt items #12-14 (Short-Term Rental/Bed and Breakfast amendments) of Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Recommended Draft*, dated July 2014.
- b. Adopt the commentary for items #12-14 (Short-Term Rental/Bed and Breakfast amendments) in Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Recommended Draft*, dated July 2014 as legislative intent and further findings.
- c. Amend Title 33, Planning and Zoning, as shown in items #12-14 (Short-Term Rental/Bed and Breakfast amendments) in Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Recommended Draft*, dated July 2014.
- d. Amend Title 3, Administration, as shown in Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Recommended Draft*, dated July 2014.
- e. Amend Title 6, Special Taxes, as shown in Exhibit A, *Regulatory Improvement Code Amendment package 6 (RICAP 6): Recommended Draft*, dated July 2014.
- f. Direct the Bureau of Planning and Sustainability to return to City Council with a proposal for accessory short-term rentals in multi-dwelling structures within 90 days.
- g. Direct the Bureau of Planning and Sustainability to monitor the effects of the amendments as part of their overall monitoring program, and provide a report on the effects to City Council by September, 2016.

Section 2. If any section, subsection, sentence, clause, phrase, diagram, designation, or drawing contained in this Ordinance, or the plan, map or code it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the plan, map, or code and each section, subsection, sentence, clause, phrase, diagram, designation, and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams, designations, or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

Passed by the Council: **JUL 30 2014**

Mayor Charles Hales  
Prepared by: Shannon Buono  
Date Prepared: July 16, 2014

**LaVonne Griffin-Valade**  
Auditor of the City of Portland  
By

  
Deputy

Portland, OR

Attachment 2

## **ORDINANCE No. 186976 As Amended**

Amend accessory short-term rentals regulations to allow multi-dwelling structures, multi-dwelling development, triplexes, attached duplexes, manufactured dwellings and houseboats; establish fee for accessory short-term rental permits in multi-dwelling structures (Ordinance; amend Title 33)

The City of Portland Ordains:

Section 1. The Council finds:

### **General Findings**

1. This ordinance is part of the Regulatory Improvement Workplan, an ongoing program to improve City building and land use regulations and procedures. Each package of amendments is referred to as RICAP (Regulatory Improvement Code Amendment Package) followed by a number. This ordinance pertains to the Regulatory Improvement Code Amendment Package 6 (RICAP 6) amendments addressing accessory short-term rentals.
2. During the spring and summer of 2013, staff from the Bureau of Planning and Sustainability (BPS) and the Bureau of Development Services (BDS) worked together to develop a draft work plan for RICAP 6. Potential code amendments were drawn from a database that contains regulatory improvement requests.
3. On August 13, 2013, the Planning and Sustainability Commission held a public hearing and adopted the work plan for (RICAP 6). Notice of the August 13 hearing was sent to all neighborhood associations, neighborhood coalitions, and business associations in the city of Portland, as well as other interested parties on July 25, 2013. The accessory short-term rental items were grouped together in the work plan and identified as items 12-14.
4. During the summer and fall of 2013, BPS staff conducted research, met with neighborhood land use chairs, and worked with BDS staff and staff from other City agencies to develop a proposal for the accessory short-term rental items.
5. The Planning and Sustainability Commission and the City Council held public hearings on the RICAP 6 proposals. At these hearings there was testimony both in favor of and against allowing accessory short-term rentals in multi-dwelling structures.
6. On July 30, 2014 City Council approved the accessory short-term rental regulations of the RICAP 6 which created a Type A accessory short-term rental permit that allows residents in houses, attached houses, manufactured homes on their own lot, duplexes and accessory dwelling units to rent up to two bedrooms to overnight guests on a short-term basis (less than 30 days at a time). Type B accessory short-term rentals that rent 3-5 bedrooms to overnight guests continue to require a conditional use review.
7. The implementing ordinance for the RICAP 6 accessory short-term rental regulations (Ordinance No. 186736) directs the Bureau of Planning and Sustainability to return to City Council with a proposal for accessory short-term rentals in multi-dwelling structures within 90 days.

8. Mayor Hales's staff formed a stakeholder working group, conducted three working group meetings, and worked with staff from Bureau of Development Services and Bureau of Planning and Sustainability to develop regulations for accessory short-term rentals in multi-dwelling structures.
9. On October 15, 2014 notice of proposed action was mailed to Department of Land conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-018-0020 and ORS 197.610. This was a revision to a previously submitted notice (RICAP 6) submitted on 03/18/2014, which addressed many different proposed zoning code amendments in addition to amendments allowing short-term rentals.
10. The *Accessory Short-Term Rentals in Multi-Dwelling Structures—Mayor's Recommended Draft*, was available to the public on October 20, 2014. Notice of the November 19, 2014 City Council hearing on the Mayor's recommendation was mailed to the persons and entities identified in PCC 33.740.020.B.1, all persons who presented testimony orally or in writing to the Planning and Sustainability Commission or City Council and provided a name and address, those who asked for notice, and other interested parties on October 21, 2014.
11. The Bureau of Development Services enforcement program has determined that a fee of \$100 will cover the actual cost of processing an administrative permit for a Type A accessory short-term rental in a multi-dwelling structure.

## Findings on Statewide Planning Goals

12. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with state land use goals. Only the stated goals addressed below apply.
13. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided several opportunities for public involvement. The amendments are supportive of this goal for the following reasons:
  - a) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Proposed Workplan* which included a minor policy bundle of accessory short-term rental items was made available to the public for review on July 24, 2013. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.
  - b) The Planning and Sustainability Commission held a public hearing on the RICAP 6 proposed work plan on August 13, 2013. Notice of the hearing was mailed to all neighborhood associations, neighborhood coalitions, business associations, and other interested parties on July 25, 2013.
  - c) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Discussion Draft* was made available to the public for review on January 6, 2014. The report was posted on the City's regulatory improvement program website, and mailed to all who requested a copy.
  - d) Notice of the RICAP 6 discussion draft was also mailed on January 8, 2014 to over 750 recipients, including neighborhood associations, neighborhood coalitions, business associations, and other interested parties. The notice included the dates, times and locations of neighborhood association or neighborhood coalition meetings, and a BPS sponsored open house, during which project staff presented the draft for discussions and questions.



- e) Project staff attended six neighborhood coalition meetings, and two neighborhood association meetings between January 6, and February 21, 2014. The RICAP 6 discussion draft report was presented and discussed at each of these meetings. In every meeting attended the majority of the interest and discussion focused on the accessory short-term rental proposals.
- f) Project staff held an open house on February 11, 2014 to discuss the *RICAP 6 Discussion Draft* from 5:00 pm to 7:30 pm. The first hour included a staff presentation followed by discussion about the accessory short-term rental proposals. Because of the interest in these proposals the entire open house was dedicated to the short-term rental proposals.
- g) On March 18, 2014 notice of the proposed action was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-018-0020 and ORS 197.610.
- h) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Proposed Draft* was made available to the public for review on March 21, 2014. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.
- i) The Planning and Sustainability Commission held a public hearing on the RICAP 6 proposed draft on April 22, 2014. Notice of the hearing was mailed to the regional transit agency, Metro, the Oregon Department of Transportation, all neighborhood associations, neighborhood coalitions, business associations, affected bureaus, and other interested parties on March 20, 2014, as required by ORS 227.186 and PCC 33.740.
- j) The *Regulatory Improvement Code Amendment Package 6 (RICAP 6): Recommended Draft* was made available to the public for review on May 19, 2014. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.
- k) City Council held a public hearing on the RICAP 6 recommended draft on June 4, 2014. Notice of the hearing was mailed on May 13, 2014 to all who testified orally or in writing at the Planning and Sustainability Commission hearing, and to other persons who requested such notice.
- l) In addition to the June 4, 2014 public hearing on all RICAP 6 items, City Council review of the accessory short-term rentals regulations included a work session on June 24, and subsequent public hearings on July 2 and July 23, 2014.
- m) At the June 23, 2014 hearing Mayor Hales directed staff to look at options for including short-term rentals in multi-dwelling structures and return to Council before the end of the year with a proposal. This direction was included in the Ordinance adopting the rest of RICAP 6.
- n) On October 15, 2014 a revised notice of the RICAP 6 proposed action was mailed to Department of Land conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-018-0020 and ORS 197.610.
- o) The *Accessory Short-Term Rentals in Multi-Dwelling Structures—Mayor's Recommended Draft*, was available to the public on October 20, 2014. The report was posted on the City's regulatory improvement program website and mailed to all who requested a copy.
- p) Notice of the November 19, 2014 City Council hearing on the Mayor's recommendation was mailed to the persons and entities identified in PCC 33.740.020.B.1, all persons who presented testimony orally or in writing to the Planning and Sustainability Commission or City Council and

provided a name and address, those who asked for notice, and other interested parties on October 21, 2014.

14. **Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision. The process for identifying and adopting the amendments supports this goal for the following reasons:

- The process followed all procedures required by Title 33.740, Legislative Procedures, OAR 660-018-0020, ORS 227.186 and ORS 197.610;
- The amendments meets relevant goals and policies of the City's adopted Comprehensive Plan as described in the findings for Portland's Comprehensive Plan Goals and Policies;
- The amendments are based on relevant facts in the record including an estimate of the number of accessory short-term rentals in multi-dwelling structures being operated in the city; a survey of accessory short-term rental operators in Portland conducted by Airbnb; a review of relevant City and State regulations pertaining to lodgings and lodging taxation; and testimony in the record.

See also findings addressing Portland Comprehensive Plan Goal 1, Metropolitan Coordination.

15. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity. These amendments are consistent with this goal by allowing accessory short-term rentals in additional residential structure types, thereby expanding the opportunity to use additional types of dwelling units for economic activity. The findings for Portland Comprehensive Plan Goal 5, Economic Development also demonstrate that the amendments are consistent with this goal.
16. **Goal 10, Housing**, requires provision for the housing needs of citizens of the state. The findings for Portland Comprehensive Plan Goal 4, Housing, and relevant sub-policies and objectives, demonstrate that the amendments are consistent with Goal 10.
17. **Goal 12, Transportation**, requires provision of a safe, convenient, and economic transportation system. The findings for Portland Comprehensive Plan Goal 6, Transportation, and relevant sub-policies demonstrate that the amendments are consistent with Goal 12.
18. **The Oregon Transportation Planning Rule (TPR)** was adopted in 1991 and amended in 1996, 2005 and 2012 to implement State Goal 12. The TPR requires certain findings if a proposed Comprehensive Plan Map amendment, zone change, or regulation will significantly affect an existing or planned transportation facility.

These amendments will not have a significant effect on existing or planned transportation facilities because, as demonstrated in the findings for Portland Comprehensive Plan Goal 6 and related sub-policies, the amendments ensure that the number of trips generated by a household living use with an accessory short-term rental use will not exceed the number of trips generated by a household living use without an accessory short-term rental.

19. **Goal 14, Urbanization**, requires provision of an orderly and efficient transition of rural lands to urban use, the efficient use of land, and the provision of livable communities. The findings for Portland Comprehensive Plan Goal 2, Urban Development, Goal 3, Neighborhoods, and their relevant sub-policies demonstrates that these amendments provide for livable communities and are therefore consistent with this goal.

## Findings on Metro Urban Growth Management Functional Plan

20. The following elements of the Metro Urban Growth Management Functional Plan are relevant and applicable to these accessory short-term rental amendments.
21. **Title 1, Housing Capacity**, requires cities and or counties to maintain or increase its housing capacity. This requirement is to be generally implemented through city-wide analysis based on calculated capacities from land use designations. These amendments will not affect housing capacity. The amendments allow accessory short-term rentals in additional housing types, and by definition, an accessory short-term rental is an accessory use to a primary household living use on a site. Because there must continue to be a household living use on the site with an accessory short-term rental, these amendments do not allow conversion of a housing unit in a residential zone to a motel or other commercial use. The findings for Portland Comprehensive Plan Goal 4, Housing, and relevant sub-policies also demonstrate that these amendments are consistent with this title.
22. **Title 4, Industrial and other Employment Areas**, seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. These amendments do not increase the type or scale of non-industrial uses allowed in RSIAs, Industrial or General Employment zones for the reasons stated below:
  - The amendments do not allow establishment of a primary household living use in the Industrial or Employment zones. The amendments expand the type of dwelling unit that can have an accessory short-term rental. However, in the Industrial and Employment zones, an accessory short-term rental will only be allowed in situations where the dwelling also has a legally established, non-conforming primary household living use. The accessory short-term rental regulations also contain provisions that limit the scale of the non-industrial activity including a limit on the total number of guests and residents occupying a dwelling unit with an accessory short-term rental, a limit on the number of bedrooms that can be rented to overnight guests, and in the case of a multi-dwelling structure, a cap on the number of accessory short-term rentals allowed in the building;
  - A short-term rental (temporary lodging) can also be considered a Retail Sales and Service use, and Retail Sales and Service uses are currently allowed outright in an Industrial or General Employment zone. Up to one Retail Sales and Service use, with maximum of 3,000 square feet, is allowed in an IG1 zone, up to four Retail Sales and Service uses, with a maximum of 3,000 square feet each, are allowed in the IG2 and IH zones, and up to 60,000 square feet of Retail Sales and Service use, or up to an FAR of 1:1, is allowed in the EG zones.

For these reasons, the amendments do not conflict with Title 4. The findings addressing Portland Comprehensive Plan Goal 6, Transportation, also demonstrate that the amendments do not conflict with Title 4.

23. **Title 7, Housing Choice**, ensures opportunities for affordable housing at all income levels, and calls for a choice of housing types. The findings for Portland Comprehensive Plan Goal 4, Housing, Policy 4.2, Maintain Housing Potential, Policy 4.8, Regional Housing Opportunities, Policy 4.9, Fair Housing, and 4.11, Affordable Housing demonstrate that the amendments are consistent with this title.
24. **Title 12, Protection of Residential Neighborhoods**, calls for protecting the region's existing residential neighborhoods from air and water pollution, noise and crime, and providing adequate levels of public services. The findings for Portland Comprehensive Plan Goal 8, Environment demonstrate that the amendments will limit potential impacts from noise.

## Findings on Portland's Comprehensive Plan Goals

25. The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to these accessory short-term rentals amendments.

### GOAL 1, METROPOLITAN COORDINATION

26. **Goal 1, Metropolitan Coordination**, calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives and plans. The amendments are consistent with this goal because notification of the proposal, and an opportunity to provide comment at a public hearing before the Portland Planning and Sustainability Commission, was provided to the Oregon Department of Land Conservation and Development per ORS 197.610, and to Metro, Tri-Met, and the Oregon Department of Transportation per 33.740.020. In addition, nothing within these amendments changes or affects the Urban Growth Boundary, Urban Planning Area Boundary, or Urban Services Boundary.

### GOAL 2, URBAN DEVELOPMENT

27. **Goal 2, Urban Development** calls for maintaining Portland's role as the major regional employment and population center through public policies that encourage expanded opportunity for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments are consistent with this goal because they expand opportunities for home-based jobs, without detracting from the character of existing residential neighborhoods. An accessory short-term rental is a type of home-based job. Accessory short-term rentals are currently not allowed in multi-dwelling structures, multi-dwelling development, triplexes, attached duplexes, manufactured dwellings, and houseboats. These amendments expand the list of housing types in which an accessory short-term rental can be established to all residential structure types. The change will provide residents in the additional housing types the opportunity to have this type of home-based business. The additional home-based jobs will not detract from the character of existing residential neighborhoods because the adopted accessory short-term rental regulations include provisions that address several common elements of neighborhood character including use, intensity, and accessory home occupations:
  - Use. The accessory short-term rental regulations do not allow a home in a neighborhood to be converted to a full-time, short-term rental. The existing regulations ensure that the accessory short-term rental remains an accessory use to a primary household living use on a site. This is accomplished by requiring that a long-term resident live in the dwelling unit in which the rooms will be rented;

- Intensity. The accessory short-term rental regulations limit a Type A accessory short-term rental to offering no more than two bedrooms to overnight guests, and require a conditional use review, which includes notice and a public hearing, for facilities that rent more than two bedrooms per night;
- Intensity. The accessory short-term rental regulations limit the total number of guests and residents occupying a dwelling with an accessory short-term rental to no more than the number allowed for a household (per 33.910.030; one or more persons related by blood, marriage, legal adoption, guardianship, or domestic partnership plus not more than 5 other persons). This provision ensures that the number of residents and guests coming and going from the home with bedrooms rented on a short-term basis does not exceed the number of residents allowed to come and go from other homes in the neighborhood without an accessory short-term rental;
- Accessory home occupation. The accessory short-term rental regulations prohibit the establishment of a Type B accessory home occupation in a dwelling unit with an accessory short-term rental, and prohibiting non-resident employees and commercial meetings in a Type A accessory short-term rental. A Type B accessory home occupation is one in which the resident uses their home as place of work, and has one employee or up to eight customers per day. This provision is intended to limit potential impacts that additional trips to and from a dwelling with an accessory short-term rental may have on the surrounding neighborhood;
- Finally, the existing accessory short-term rental regulations allow the Type A accessory short-term rental permit to be revoked for failure to comply with the regulations of 33.207.

In addition to the adopted regulations, the amendments also limit the number of accessory short-term rentals in a multi-dwelling structures to ensure the character of the building and the surrounding area remains residential.

28. **Policy 2.9, Residential Neighborhoods**, calls for allowing for a range of housing types to accommodate increased population growth while improving and protecting the city's residential neighborhoods. The amendments are consistent with this policy because they include provisions that protect the integrity of the city's residential neighborhoods as described in the findings for Goal 2, Urban Development.
29. **Policy 2.14, Industrial Sanctuaries**, calls for providing industrial sanctuaries and encouraging the growth of industrial activities by preserving industrial land primarily for manufacturing purposes. The findings for Title 4 also demonstrate that the amendments are consistent with this policy.
30. **Policy 2.15, Living Closer to Work**, calls for locating greater residential densities near major employment centers, locating affordable housing close to employment centers, and encouraging home-based work where the nature of the work is not disruptive to the neighborhood. As described in the findings for Goal 2, Urban Development, the amendments encourage home-based jobs, and the existing accessory short-term rental regulations include provisions that protect neighborhoods.

### GOAL 3, NEIGHBORHOODS

31. **Goal 3, Neighborhoods**, calls for preserving and reinforcing the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses and insure the city's residential quality and economic vitality. The amendments are consistent with this goal and preserve the stability of the city's neighborhoods for the reasons stated in the findings for Goal 2, Urban Development, the Goal 2 sub-policies, and the findings below.

32. **Policy 3.2, Social Conditions**, call for providing and coordinating programs to promote neighborhood interest, concern and security and to minimize the social impact of land use decisions. The amendments promote neighborhood interest and concern because they require the resident to notify neighbors before the accessory short-term rental is approved. The notification must include a description of the operation and the number of rooms to be rented to overnight guests. The notification must also include contact information for the operator and describe how the standards of the Title 33.207 will be met. This notification must be updated every two years. The amendments also address neighborhood concern and security because Title 3.30.040.B.5 allows the Type A accessory short-term rental permit to be revoked for failure to comply with the regulations of Title 33.207. If the permit is revoked, a new permit will not be issued to the operator at that residence for two years.
33. **Policy 3.5, Neighborhood Involvement**, provides for the active involvement of neighborhood residents and businesses in decisions affecting their neighborhood, and calls for providing information to neighborhood and business associations which allows them to monitor the impacts of the Comprehensive Plan. The amendments support this policy because they require that neighborhood associations and business associations be notified when an accessory short-term rental is established within their boundaries. The notification will provide the associations with contact information for the operator, a description of the operation and the number of rooms to be rented to overnight guests, and a description of how the operation meets the other standards of Title 33.207.

#### GOAL 4, HOUSING

34. **Goal 4, Housing**, calls for enhancing Portland's vitality as a community at the center of the region's housing market by providing housing of different types, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The amendments are consistent with this policy because the existing regulations that will apply to an accessory short-term rentals include provisions aimed at preserving housing, and they accommodate the needs and preferences of current households. The regulations preserve housing by prohibiting the conversion of an entire dwelling unit in a residential zone to a motel or other commercial use. In all cases, an accessory short-term rental must be an accessory use to a primary household living use on a site. The regulations:
- Require that a long-term resident live in the dwelling unit in which the rooms will be rented;
  - Require that the dwelling unit be the long-term resident's primary residence;
  - Limit the number of bedrooms being rented to overnight guests to not more than two, and require a conditional use review for facilities that rent more than two bedrooms per night.

The regulations also accommodate the needs and preference of current households as expressed by people who provided testimony on the accessory short-term rental amendments to the Planning and Sustainability Commission. The Planning and Sustainability Commission received testimony from 36 people who rent bedrooms in their homes to overnight guests. Many of the 36 testified that renting a room to guests has allowed them to increase their income, and 14 of the 36 testified that the additional income has allowed them to stay in their homes.

35. **Policy 4.2, Maintain Housing Potential**, calls for retaining housing potential by requiring no net loss of land reserved for, or committed to, residential, or mixed-use. This policy is implemented by an approval criterion applied to quasi-judicial Comprehensive Plan Map Amendments that requires no net loss of potential housing units when a requested amendment is from a residential or the urban commercial Comprehensive Plan Map designation to a non-residential map designation (33.810.050.A.2). These amendments do not conflict with this policy because they do not amend, change, or undermine the approval criterion.

36. **Policy 4.4 Housing Safety**, calls for ensuring a safe and healthy built environment and assisting in the preservation of sound existing housing and the improvement of neighborhoods. These amendments support this policy because they require the operator of a Type A accessory short-term rental to verify that each floor on which a room will be rented has at least one carbon monoxide alarm, and each bedroom has a smoke detector that is interconnected with smoke detectors in an adjacent hallway. These requirements are intended to ensure that guests can exit the dwelling rapidly and safely in the event of a fire or other emergency. These amendments also prohibit accessory short-term rentals in dwelling units in Chapter 13 buildings without approved sprinkler systems.
37. **Policy 4.8, Regional Housing Opportunities**, ensures opportunities for economic and racial integration throughout the region by advocating for the development of a range of housing options affordable to all income levels throughout the region. Policy 4.8, Objective A calls for advocating for a regional “fair share” strategy for meeting the housing needs of low, moderate, and higher-income households and people in protected classes in cities and counties throughout the region, and Policy 4.8 Objective B calls for supporting regulations and incentives that encourage the production and preservation of housing that is affordable throughout the region. As stated in the findings for Goal 4, Housing, and Policy 4.2, Maintain Housing Potential, these amendments will not encourage the loss of long-term rentals because they do not allow the conversion of housing units in residential zones from a primary residential use to a primary commercial use.
38. **Policy 4.9, Fair Housing**, calls for freedom of choice in housing type, tenure, and neighborhood for all, regardless of race, color, age, gender, familial status, sexual orientation, religion, national origin, source of income or disability. City Code Title 23.01 and Oregon Revised Statute 659A.403 prohibit discrimination based on race, religion, color, sex, sexual orientation, gender identity, national origin, marital status, familial status, age if over 18, or disability in places of public accommodation, such as lodgings, and in the selling, leasing or renting of real property. This ordinance does not reduce or nullify in any way the prohibition of discrimination contained in City Code Title 23.01 or ORS 659A.
39. **Policy 4.11 Affordability**, promotes the development and preservation of quality housing that is affordable across the full spectrum of household incomes. The amendments are consistent with this policy because allowing accessory short-term rentals will not affect the supply of needed affordable housing for the following reasons:
- The accessory short-term rental regulations do not allow conversions of needed housing in residential zones from a residential use to a commercial use. The regulations ensure that the primary use of the dwelling unit remains household living. The regulations allow a long-term resident to rent unused bedrooms within their primary residence to overnight guests, and the regulations limit the number of bedrooms that can be rented on a short-term basis.
  - Allowing accessory short-term rentals in additional residential structure types will increase the number of households eligible to establish an accessory short-term rental. Testimony in the record asserts that the ability to receive income from overnight guests may increase the ability of long-term residents to afford the cost of maintaining their homes or remain in their home during times of financial struggle.
  - Home Forward (formerly Housing Authority of Portland) is a government agency that owns homes and makes them available to rent by households earning less than sixty-percent of median metropolitan statistical area income. Rental agreements for these homes always contain a prohibition on subletting that will prohibit accessory short-term rentals. The amendments will therefore not affect the affordability of this publically owned housing. In addition, they will not

affect affordable housing obtained through the Housing Choice Voucher Program funded by the U.S. Department of Housing and Urban Development and administered by Home Forward. This program is commonly referred to as Section 8, and it provides rent assistance to low-income residents. The assistance voucher can be used for renting an apartment or a house, but it cannot be used to rent a room in an apartment or a house, therefore converting a bedroom in a home to an accessory short-term rental is not removing a Section 8 housing unit from the affordable housing market.

40. **Policy 4.14 Neighborhood Stability**, calls for neighborhood stability by promoting: 1) a variety of homeownership and rental housing options; 2) security of housing tenure; and 3) opportunities for community interaction. As detailed in the findings for Goal 2, Urban Development, Policy 2.15, Living Close to Work, Policy 3.2 Social Conditions, Policy 3.5, Neighborhood Involvement, and Goal 4, Housing, the amendments promote neighborhood stability by ensuring that the short-term rental use remains accessory to a primary household living use, preventing the conversion of a dwelling in a residential zone to a full-time, short-term rental, requiring notification of the establishment of an accessory short-term rental to neighboring dwelling units and local neighborhood and business associations, and allow the accessory short-term rental permit to be revoked for failure to comply with the regulations of Title 33.207.

#### GOAL 5, ECONOMIC DEVELOPMENT

41. **Goal 5, Economic Development**, calls for fostering a strong and diverse economy which provides a full range of employment and economic choices for individuals and families in all parts of the city. As described in the findings for Goal 2, Urban Development, and Policy 2.15, Living Close to Work, the amendments are consistent with this goal because they encourage expanded opportunity for home-based jobs. An accessory short-term rental, where a long-term resident rents bedrooms in the dwelling in which they reside to overnight guests, is a home-based job. Currently, accessory short-term rentals are not allowed in multi-dwelling structures, multi-dwelling development, triplexes, attached duplexes, manufactured dwellings, and houseboats. The amendments allow residents in these structure types the opportunity to have this type of home-based job. According to a survey of accessory short-term rental host in Portland who use the Airbnb website, the average annual income generated from an accessory short-term rental is \$6,860 (Airbnb survey 2014).

#### GOAL 6, TRANSPORTATION

42. **Goal 6, Transportation**, calls for developing a balanced, equitable, and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility. The amendments are consistent with this goal because the existing regulations that will apply to an accessory short-term rental ensure that the potential number of trips generated by an household with an accessory short-term rental will not exceed the number of trips that could be generated by a household without an accessory short-term rental because:
- The regulations include a provision that limits the total number of guests and residents staying in a home with an accessory short-term rental to no more than the number of residents allowed to reside in a home without an accessory short-term rental.



- The regulations further limit the number of trips that could be generated by an home with an accessory short-term rental because they prohibit the resident in a home with a Type A accessory short-term rental from also operating a Type B accessory home occupation. A Type B accessory home occupation is one in which the operator has one employee or up to eight customers per day. By prohibiting a Type B accessory home occupation, the potential number of trips to and from a home in a residential zone is reduced.
- The recommended amendments cap the number of dwelling units in a multi-dwelling structure or triplex that can have an accessory short-term rental. The cap will also limit the potential for additional trips to and from an accessory short-term rental in a multi-dwelling structure.

In addition, testimony in the record suggest that many guests in a home with an accessory short term rental do not have a car. One operator who testified at the Planning and Sustainability Commission hearing said that fewer than one-half of their guests have had a car, and another operator testified that more than 80 percent of their guests did not have a car.

43. **Policy 6.12, Regional and City Travel Patterns**, calls for supporting the use of the street system consistent with its state, regional, and city classifications and its classification descriptions. Objective B calls for minimizing the impacts of interregional and long intraregional trips on Portland neighborhood and commercial areas, while supporting the travel needs of the community. These amendments are consistent with this policy because, as stated in the findings for Goal 6, Transportation, they ensure that the number of trips generated by a dwelling unit with an accessory short-term rental will be no more than, and could potentially be fewer than, the number of trips generated by dwelling unit without an accessory short-term rental.
44. **Policy 6.26, On-Street Parking Management**, calls for managing the supply, operations, and demand for parking and loading in the public right-of-way to encourage economic vitality, safety for all modes, and livability of residential areas. As stated in the findings for Goal 6, Transportation, these amendments are consistent with this policy because they will not increase the demand for parking in residential areas, and will in some cases reduce the potential demand for parking in residential areas.

## GOAL 8, ENVIRONMENT

45. **Goal 8, Environment**, calls for maintaining and improving the quality of Portland's air, water and land resources and protect neighborhoods and business centers from detrimental noise pollution. These amendments will limit potential impacts from noise because the amendments and the accessory short-term rental regulations include provisions intended to keep the activities occurring in association with the accessory use at the same level of activity expected from home without an accessory short-term rental. The amendment and regulations accomplish this by:
- Ensuring that the number of guests and residents staying in a home with an accessory short-term rental does not exceed the number of residents of a home without an accessory short-term rental;
  - Prohibiting establishment of a Type B accessory home occupation in a home with an accessory short-term rental. A Type B accessory home occupation can have up to eight customers arriving and leaving from the home each day;
  - Limiting the number of dwelling units in a multi-dwelling structure or triplex that can have an accessory short-term rental; and
  - Allowing the accessory short-term rental permit to be revoked for failure to comply with the requirements of Title 33.207.

For these reasons, the amendments are consistent with this goal.

## GOAL 9, CITIZEN INVOLVEMENT

46. **Goal 9, Citizen Involvement**, calls for improving the methods for citizen involvement in the on-going land use decision-making process, and providing opportunities for citizen participation in the implementation, review, and amendment of the Comprehensive Plan. Policy 9.1 calls for encouraging citizen involvement in land use planning projects by actively coordinating the planning process with relevant community organizations, through the reasonable availability of planning reports to city residents and businesses, and notice of official public hearings to neighborhood associations, business groups, affected individuals and the general public. The preparation of these amendments provided multiple opportunities for citizen involvement, in accordance with the legislative procedure requirements of Title 33.740, Legislative Procedure. The amendments support this goal for the reasons found in the findings for Statewide Planning Goal 1, Citizen Involvement.

## GOAL 10, PLAN REVIEW AND IMPLEMENTATION

47. **Policy 10.10, Amendments to the Zoning and Subdivision Regulations**, requires amendments to the zoning and subdivision regulations to be clear, concise, and applicable to the broad range of development situations faced by a growing urban city. Objective A calls for promoting good planning by effectively and efficiently implementing the Comprehensive Plan, addressing present and future land use problems, balancing the benefits of regulations against the cost of implementation and compliance, and assuring that Portland remains competitive with other jurisdictions as a location in which to live, invest and do business. The amendments are consistent with this policy and its objectives for the following reasons:

- They address a development situation that has been growing in Portland. The number of short-term rentals occurring in Portland has increased substantially. In May 2014, Bureau of Planning and Sustainability found over 1,600 short-term rental listings on one website that facilitates peer-to-peer short-term rentals, up from 107 in January 2011. In October, 2014 the Bureau of Planning and Sustainability found that 579 of the 1,600 short-term rental listings were for dwelling units in multi-dwelling structures;
- They address a present land use problem. Accessory short-term rentals are prohibited in multi-dwelling structures. Therefore, the 579 short-term rental listings for dwelling units in multi-dwelling structures are operating without approval and this presents a present land use problem that needs to be remedied; and
- They clarify and streamline regulations that have not been updated since 2004.

NOW, THEREFORE, the Council directs:

- a. Adopt Exhibit A, *Accessory Short-Term Rentals in Multi-Dwelling Structures—Mayor's Recommended Draft*, dated October 20, 2014;
- b. Amend Title 33, Planning and Zoning, as shown in Exhibit A, *Accessory Short-Term Rentals in Multi-Dwelling Structures—Mayor's Recommended Draft*, dated October 20, 2014;
- c. Adopt the commentary in Exhibit A, *Accessory Short-Term Rentals in Multi-Dwelling Structures—Mayor's Recommended Draft*, dated October 20, 2014 as legislative intent and further findings;

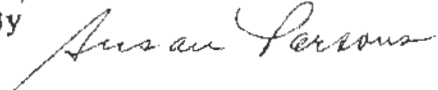
- d. Direct the Bureau of Planning and Sustainability to monitor the effects of the amendments as part of their overall monitoring program, and provide a report on the effects to City Council by January 2017; and
- e. Amend Bureau of Development Services Enforcement Fee and Penalty Schedule as shown in Exhibit B.

Section 2. If any section, subsection, sentence, clause, phrase, diagram, designation, or drawing contained in this Ordinance, or the plan, map or code it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the plan, map, or code and each section, subsection, sentence, clause, phrase, diagram, designation, and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams, designations, or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

Passed by the Council: JAN 14 2015

Mayor Charles Hales  
Prepared by: Julia Gisler  
Date Prepared: October 27, 2014

**Mary Hull Caballero**  
Auditor of the City of Portland

By 

Deputy

San Francisco, CA

Attachment 1

AMENDED IN BOARD

10/7/14

FILE NO. 140381

ORDINANCE NO. 218-14

[Administrative, Planning Codes - Amending Regulation of Short-Term Residential Rentals and Establishing Fee]

**Ordinance amending the Administrative Code to provide an exception for permanent residents to the prohibition on short-term residential rentals under certain conditions; to create procedures, including a registry administered by the Planning Department, for tracking short-term residential rentals and compliance; to establish an application fee for the registry; amending the Planning Code to clarify that short-term residential rentals shall not change a unit's type as residential; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.**

**NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.  
**Additions to Codes** are in *single-underline italics Times New Roman font*.  
**Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.  
**Board amendment additions** are in double-underlined Arial font.  
**Board amendment deletions** are in ~~strikethrough Arial font~~.  
**Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Board of Supervisors of the City and County of San Francisco hereby finds and determines that:

(a) General Plan and Planning Code Findings.

(1) On August 7, 2014, at a duly noticed public hearing, the Planning Commission in Resolution No. 19213 found that the proposed Planning Code amendments contained in this ordinance were consistent with the City's General Plan and with Planning Code Section 101.1(b) and recommended that the Board of Supervisors adopt the proposed Planning Code amendments. A copy of said Resolution is on file with the Clerk of the Board of

1 Supervisors in File No. 140381 and is incorporated herein by reference. The Board finds that  
2 the proposed Planning Code amendments contained in this ordinance are on balance  
3 consistent with the City's General Plan and with Planning Code Section 101.1(b) for the  
4 reasons set forth in said Resolution.

5 (2) Pursuant to Planning Code Section 302, the Board finds that the  
6 proposed ordinance will serve the public necessity, convenience and welfare for the reasons  
7 set forth in Planning Commission Resolution No. 19213, which reasons are incorporated  
8 herein by reference as though fully set forth.

9 (b) Environmental Findings. The Planning Department has determined that the  
10 actions contemplated in this ordinance comply with the California Environmental Quality Act  
11 (California Public Resources Code Section 21000 et seq.). Said determination is on file with  
12 the Clerk of the Board of Supervisors in File No. 140381 and is incorporated herein by  
13 reference. The Board affirms this determination.

14 (c) General Findings.

15 (1) The widespread conversion of residential housing to short-term rentals,  
16 commonly referred to as hotelization, was prohibited by this Board because, when taken to  
17 extremes, these conversions could result in the loss of housing for permanent residents. But,  
18 with the advent of new technology, the rise of the sharing economy, and the economic and  
19 social benefits to residents of sharing resources, short-term rental activity continued to  
20 proliferate. This has not only led the City to strengthen enforcement of short-term rental laws,  
21 but also prompted an examination of parameters to regulate short-term rentals and create a  
22 pathway to legalize this activity. The goal of regulation is to ensure compliance with all  
23 requirements of the Municipal Code, including but not limited to the Business and Tax  
24 Regulations Code and the Residential Rent Stabilization and Arbitration Ordinance, and  
25 accountability for neighborhood quality of life.

1           (2)    The exception created here for permanent residents would allow for  
2 reasonable flexibility in renting residential spaces on an occasional basis; however, this  
3 exception is only intended for residents who meet the definition of permanent resident so that  
4 these units remain truly residential in use. Thus, the exception is only for primary residences  
5 in which permanent residents are present for a significant majority of the calendar year.

6           (3)    The hosting platforms, as part of a new but growing industry, would also  
7 benefit from regulation to ensure good business standards and practices. Such regulation  
8 includes required notification to users of local short-term rental laws and transient occupancy  
9 tax obligations to San Francisco.

10          (4)    The Office of the Treasurer & Tax Collector retains all of its existing  
11 authority under the Business & Tax Regulations Code with regard to the subject matter of this  
12 ordinance.

13  
14          Section 2. The Administrative Code is hereby amended by revising Sections 37.9(a),  
15 41A.4, 41A.5, and 41A.6, to read as follows:

16  
17          **SEC. 37.9. EVICTIONS.**   Notwithstanding Section 37.3, this Section shall apply as of  
18 August 24, 1980, to all landlords and tenants of rental units as defined in Section 37.2(r).

19          (a)    A landlord shall not endeavor to recover possession of a rental unit unless:

20                (1)    The tenant:

21                    (A)   Has failed to pay the rent to which the landlord is lawfully entitled  
22 under the oral or written agreement between the tenant and landlord:

23                               (i)   Except that a tenant's nonpayment of a charge prohibited  
24 by Section 919.1 of the Police Code shall not constitute a failure to pay rent; and  
25

1 (ii) Except that, commencing August 10, 2001, to and including  
2 February 10, 2003, a landlord shall not endeavor to recover or recover possession of a rental  
3 unit for failure of a tenant to pay that portion of rent attributable to a capital improvement  
4 passthrough certified pursuant to a decision issued after April 10, 2000, where the capital  
5 improvement passthrough petition was filed prior to August 10, 2001, and a landlord shall not  
6 impose any late fee(s) upon the tenant for such non-payment of capital improvements costs;  
7 or

8 (B) Habitually pays the rent late; or

9 (C) Gives checks which are frequently returned because there are  
10 insufficient funds in the checking account; or

11 (2) The tenant has violated a lawful obligation or covenant of tenancy other  
12 than the obligation to surrender possession upon proper notice or other than an obligation to  
13 pay a charge prohibited by Police Code Section 919.1, and failure to cure such violation after  
14 having received written notice thereof from the landlord.

15 (A) Provided that notwithstanding any lease provision to the contrary,  
16 a landlord shall not endeavor to recover possession of a rental unit as a result of subletting of  
17 the rental unit by the tenant if the landlord has unreasonably withheld the right to sublet  
18 following a written request by the tenant, so long as the tenant continues to reside in the rental  
19 unit and the sublet constitutes a one-for-one replacement of the departing tenant(s). If the  
20 landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the  
21 tenant's written request, the tenant's request shall be deemed approved by the landlord.

22 (B) Provided further that where a rental agreement or lease provision  
23 limits the number of occupants or limits or prohibits subletting or assignment, a landlord shall  
24 not endeavor to recover possession of a rental unit as a result of the addition to the unit of a  
25 tenant's child, parent, grandchild, grandparent, brother or sister, or the spouse or domestic



1 partner (as defined in Administrative Code Sections 62.1 through 62.8) of such relatives, or as  
2 a result of the addition of the spouse or domestic partner of a tenant, so long as the maximum  
3 number of occupants stated in Section 37.9(a)(2)(B)(i) and (ii) is not exceeded, if the landlord  
4 has unreasonably refused a written request by the tenant to add such occupant(s) to the unit.  
5 If the landlord fails to respond to the tenant in writing within fourteen (14) days of receipt of the  
6 tenant's written request, the tenant's request shall be deemed approved by the landlord. A  
7 landlord's reasonable refusal of the tenant's written request may not be based on the  
8 proposed additional occupant's lack of creditworthiness, if that person will not be legally  
9 obligated to pay some or all of the rent to the landlord. A landlord's reasonable refusal of the  
10 tenant's written request may be based on, but is not limited to, the ground that the total  
11 number of occupants in a unit exceeds (or with the proposed additional occupant(s) would  
12 exceed) the lesser of (i) or (ii):

13 (i) Two persons in a studio unit, three persons in a one-  
14 bedroom unit, four persons in a two-bedroom unit, six persons in a three-bedroom unit, or  
15 eight persons in a four-bedroom unit; or

16 (ii) The maximum number permitted in the unit under  
17 state law and/or other local codes such as the Building, Fire, Housing and Planning Codes; or

18 (3) The tenant is committing or permitting to exist a nuisance in, or is causing  
19 substantial damage to, the rental unit, or is creating a substantial interference with the  
20 comfort, safety or enjoyment of the landlord or tenants in the building, and the nature of such  
21 nuisance, damage or interference is specifically stated by the landlord in writing as required  
22 by Section 37.9(c); or

23 (4) The tenant is using or permitting a rental unit to be used for any illegal  
24 purpose, provided however that a landlord shall not endeavor to recover possession of a rental unit  
25

1 solely as a result of a first violation of Chapter 41A that has been cured within 30 days written notice to  
2 the tenant; or

3 (5) The tenant, who had an oral or written agreement with the landlord which  
4 has terminated, has refused after written request or demand by the landlord to execute a  
5 written extension or renewal thereof for a further term of like duration and under such terms  
6 which are materially the same as in the previous agreement; provided, that such terms do not  
7 conflict with any of the provisions of this Chapter; or

8 (6) The tenant has, after written notice to cease, refused the landlord access  
9 to the rental unit as required by State or local law; or

10 (7) The tenant holding at the end of the term of the oral or written agreement  
11 is a subtenant not approved by the landlord; or

12 (8) The landlord seeks to recover possession in good faith, without ulterior  
13 reasons and with honest intent:

14 (i) For the landlord's use or occupancy as his or her principal  
15 residence for a period of at least 36 continuous months;

16 (ii) For the use or occupancy of the landlord's grandparents,  
17 grandchildren, parents, children, brother or sister, or the landlord's spouse, or the spouses of  
18 such relations, as their principal place of residency for a period of at least 36 months, in the  
19 same building in which the landlord resides as his or her principal place of residency, or in a  
20 building in which the landlord is simultaneously seeking possession of a rental unit under  
21 Section 37.9(a)(8)(i). For purposes of this Section 37.9(a)(8)(ii), the term spouse shall include  
22 domestic partners as defined in San Francisco Administrative Code Sections 62.1 through  
23 62.8.

24 (iii) For purposes of this Section 37.9(a)(8) only, as to landlords who  
25 become owners of record of the rental unit on or before February 21, 1991, the term "landlord"

1 shall be defined as an owner of record of at least 10 percent interest in the property or, for  
2 Section 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San  
3 Francisco Administrative Code Sections 62.1 through 62.8 whose combined ownership of  
4 record is at least 10 percent. For purposes of this Section 37.9(a)(8) only, as to landlords who  
5 become owners of record of the rental unit after February 21, 1991, the term "landlord" shall  
6 be defined as an owner of record of at least 25 percent interest in the property or, for Section  
7 37.9(a)(8)(i) only, two individuals registered as domestic partners as defined in San Francisco  
8 Administrative Code Sections 62.1 through 62.8 whose combined ownership of record is at  
9 least 25 percent.

10 (iv) A landlord may not recover possession under this Section  
11 37.9(a)(8) if a comparable unit owned by the landlord is already vacant and is available, or if  
12 such a unit becomes vacant and available before the recovery of possession of the unit. If a  
13 comparable unit does become vacant and available before the recovery of possession, the  
14 landlord shall rescind the notice to vacate and dismiss any action filed to recover possession  
15 of the premises. Provided further, if a noncomparable unit becomes available before the  
16 recovery of possession, the landlord shall offer that unit to the tenant at a rent based on the  
17 rent that the tenant is paying, with upward or downward adjustments allowed based upon the  
18 condition, size, and other amenities of the replacement unit. Disputes concerning the initial  
19 rent for the replacement unit shall be determined by the Rent Board. It shall be evidence of a  
20 lack of good faith if a landlord times the service of the notice, or the filing of an action to  
21 recover possession, so as to avoid moving into a comparable unit, or to avoid offering a  
22 tenant a replacement unit.

23 (v) It shall be rebuttably presumed that the landlord has not acted in  
24 good faith if the landlord or relative for whom the tenant was evicted does not move into the  
25

1 rental unit within three months and occupy said unit as that person's principal residence for a  
2 minimum of 36 continuous months.

3 (vi) Once a landlord has successfully recovered possession of a rental  
4 unit pursuant to Section 37.9(a)(8)(i), then no other current or future landlords may recover  
5 possession of any other rental unit in the building under Section 37.9(a)(8)(i). It is the intention  
6 of this Section that only one specific unit per building may be used for such occupancy under  
7 Section 37.9(a)(8)(i) and that once a unit is used for such occupancy, all future occupancies  
8 under Section 37.9(a)(8)(i) must be of that same unit, provided that a landlord may file a  
9 petition with the Rent Board, or at the landlord's option, commence eviction proceedings,  
10 claiming that disability or other similar hardship prevents him or her from occupying a unit  
11 which was previously occupied by the landlord.

12 (vii) If any provision or clause of this amendment to Section 37.9(a)(8)  
13 or the application thereof to any person or circumstance is held to be unconstitutional or to be  
14 otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other  
15 chapter provisions, and clauses of this Chapter are held to be severable; or

16 (9) The landlord seeks to recover possession in good faith in order to sell the  
17 unit in accordance with a condominium conversion approved under the San Francisco  
18 subdivision ordinance and does so without ulterior reasons and with honest intent; or

19 (10) The landlord seeks to recover possession in good faith in order to  
20 demolish or to otherwise permanently remove the rental unit from housing use and has  
21 obtained all the necessary permits on or before the date upon which notice to vacate is given,  
22 and does so without ulterior reasons and with honest intent; provided that a landlord who  
23 seeks to recover possession under this Section 37.9(a)(10) shall pay relocation expenses as  
24 provided in Section 37.9C except that a landlord who seeks to demolish an unreinforced  
25 masonry building pursuant to Building Code Chapters 16B and 16C must provide the tenant

1 with the relocation assistance specified in Section 37.9A(f) below prior to the tenant's vacating  
2 the premises; or

3 (11) The landlord seeks in good faith to remove temporarily the unit from  
4 housing use in order to be able to carry out capital improvements or rehabilitation work and  
5 has obtained all the necessary permits on or before the date upon which notice to vacate is  
6 given, and does so without ulterior reasons and with honest intent. Any tenant who vacates  
7 the unit under such circumstances shall have the right to reoccupy the unit at the prior rent  
8 adjusted in accordance with the provisions of this Chapter. The tenant will vacate the unit only  
9 for the minimum time required to do the work. On or before the date upon which notice to  
10 vacate is given, the landlord shall advise the tenant in writing that the rehabilitation or capital  
11 improvement plans are on file with the Central Permit Bureau of the Department of Building  
12 Inspection and that arrangements for reviewing such plans can be made with the Central  
13 Permit Bureau. In addition to the above, no landlord shall endeavor to recover possession of  
14 any unit subject to a RAP loan as set forth in Section 37.2(m) of this Chapter except as  
15 provided in Section 32.69 of the San Francisco Administrative Code. The tenant shall not be  
16 required to vacate pursuant to this Section 37.9(a)(11), for a period in excess of three months;  
17 provided, however, that such time period may be extended by the Board or its Administrative  
18 Law Judges upon application by the landlord. The Board shall adopt rules and regulations to  
19 implement the application procedure. Any landlord who seeks to recover possession under  
20 this Section 37.9(a)(11) shall pay relocation expenses as provided in Section 37.9C; or

21 (12) The landlord seeks to recover possession in good faith in order to carry  
22 out substantial rehabilitation, as defined in Section 37.2(s), and has obtained all the necessary  
23 permits on or before the date upon which notice to vacate is given, and does so without  
24 ulterior reasons and with honest intent. Notwithstanding the above, no landlord shall endeavor  
25 to recover possession of any unit subject to a RAP loan as set forth in Section 37.2(m) of this

1 Chapter except as provided in Section 32.69 of the San Francisco Administrative Code; Any  
2 landlord who seeks to recover possession under this Section 37.9(a)(12) shall pay relocation  
3 expenses as provided in Section 37.9C; or

4 (13) The landlord wishes to withdraw from rent or lease all rental units within  
5 any detached physical structure and, in addition, in the case of any detached physical  
6 structure containing three or fewer rental units, any other rental units on the same lot, and  
7 complies in full with Section 37.9A with respect to each such unit; provided, however, that  
8 guestrooms or efficiency units within a residential hotel, as defined in Section 50519 of the  
9 Health and Safety Code, may not be withdrawn from rent or lease if the residential hotel has a  
10 permit of occupancy issued prior to January 1, 1990, and if the residential hotel did not send a  
11 notice of intent to withdraw the units from rent or lease (Administrative Code Section 37.9A(f),  
12 Government Code Section 7060.4(a)) that was delivered to the Rent Board prior to January 1,  
13 2004; or

14 (14) The landlord seeks in good faith to temporarily recover possession of the  
15 unit solely for the purpose of effecting lead remediation or abatement work, as required by  
16 San Francisco Health Code Articles 11 or 26. The tenant will vacate the unit only for the  
17 minimum time required to do the work. The relocation rights and remedies, established by  
18 San Francisco Administrative Code Chapter 72, including but not limited to, the payment of  
19 financial relocation assistance, shall apply to evictions under this Section 37.9(a)(14).

20 (15) The landlord seeks to recover possession in good faith in order to  
21 demolish or to otherwise permanently remove the rental unit from housing use in accordance  
22 with the terms of a development agreement entered into by the City under Chapter 56 of the  
23 San Francisco Administrative Code.

24 (16) The tenant's Good Samaritan Status (Section 37.2(a)(1)(D)) has expired,  
25 and the landlord exercises the right to recover possession by serving a notice of termination of

1 tenancy under this Section 37.9(a)(16) within 60 days after expiration of the Original and any  
2 Extended Good Samaritan Status Period.

3 \* \* \* \*

4  
5 **SEC. 41A.4. DEFINITIONS.**

6 Whenever used in this Chapter 41A, the following words and phrases shall have the definitions  
7 provided in this Section:

8 **Business Entity.** A corporation, partnership, or other legal entity that is not a natural  
9 person that owns or leases one or more residential units.

10 **Complaint.** A complaint submitted to the Department by an interested party alleging  
11 a violation of this Chapter 41A and that includes the ~~r~~Residential ~~u~~Unit's address, including unit  
12 number, date(s) and nature of alleged violation(s), and any available contact information for the  
13 ~~o~~Owner and/or resident of the ~~r~~Residential ~~u~~Unit at issue.

14 **Conversion or Convert.** A change of use from ~~r~~Residential ~~u~~Use to ~~t~~Tourist or  
15 ~~t~~Transient ~~u~~Use, including, but not limited to, renting a ~~r~~Residential ~~u~~Unit as a ~~t~~Tourist or ~~t~~Transient  
16 ~~u~~Use.

17 **Department.** The Planning Department.

18 **Director.** The Director of the Planning Department.

19 **Hosting Platform.** A person or entity that provides a means through which an ~~o~~Owner  
20 may offer a ~~r~~Residential ~~u~~Unit for ~~t~~Tourist or ~~t~~Transient ~~u~~Use. This service is usually, though not  
21 necessarily, provided through an online platform and generally allows an ~~o~~Owner to advertise the  
22 ~~r~~Residential ~~u~~Unit through a website provided by the ~~h~~Hosting ~~p~~Platform and provides a means for  
23 potential tourist or transient users to arrange ~~t~~Tourist or ~~t~~Transient ~~u~~Use and payment, whether the  
24 tourist or transient pays rent directly to the ~~o~~Owner or to the ~~h~~Hosting ~~p~~Platform.

1 Interested Party. A ~~p~~Permanent ~~r~~Resident of the building in which the ~~t~~Tourist or  
2 ~~t~~Transient ~~u~~Use is alleged to occur, any homeowner association ~~e~~associated with the building  
3 Residential Unit in which the Tourist or Transient Use is alleged to occur, the Owner of the  
4 Residential Unit in which the Tourist or Transient Use is alleged to occur, the City and County of  
5 San Francisco, or any non-profit organization exempt from taxation pursuant to Title 26, Section 501  
6 of the United States Code, which has the preservation or improvement of housing as a stated purpose in  
7 its articles of incorporation or bylaws.

8 Owner. Owner includes any person who is the owner of record of the real property. As  
9 used in this Chapter 41A, the term "Owner" includes a lessee where the lessee is offering a  
10 ~~r~~Residential ~~u~~Unit for ~~t~~Tourist or ~~t~~Transient use.

11 Permanent Resident. A person who occupies a ~~r~~Residential ~~u~~Unit for at least 60  
12 consecutive days with intent to establish that unit as his or her primary residence. A ~~p~~Permanent  
13 ~~r~~Resident may be an owner or a lessee.

14 Primary Residence. The ~~p~~Permanent ~~r~~Resident's usual place of return for housing as  
15 documented by at least two of the following: motor vehicle registration; driver's license; voter  
16 registration; tax documents showing the Residential Unit as the Permanent Resident's  
17 residence for the purposes of a home owner's tax exemption; or other such evidence a utility bill.  
18 A person may have only one Primary Residence.

19 (a) — **Residential Unit.** Room or rooms, including a condominium or a room or  
20 dwelling unit that forms part of a tenancy-in-common arrangement, in any building, or portion  
21 thereof, which is designed, built, rented, leased, let or hired out to be occupied for ~~r~~Residential  
22 ~~u~~Use, or which is occupied as the home or residence of four or more households living independently  
23 of each other in dwelling units as defined in the San Francisco Housing Code, provided that the  
24 residential unit was occupied by a permanent resident on or after February 8, 1981. It is presumed that  
25



1 ~~a residential unit was occupied by a permanent resident on or after February 8, 1981, and the owner~~  
2 ~~has the burden of proof to show that a residential unit is not subject to this Chapter.~~

3 (b) **Residential Use.** Any use for occupancy of a ~~dwelling~~ Residential uUnit by a  
4 pPermanent rResident.

5 Short-Term Residential Rental. A tTourist or tTransient uUse where all of the  
6 following conditions are met:

7 (a) the rResidential uUnit is offered for tTourist or tTransient uUse by the  
8 pPermanent rResident of the rResidential uUnit;

9 (b) the pPermanent rResident is a natural person;

10 (c) the pPermanent rResident has registered the Residential Uunit and maintains  
11 good standing on the Department's Short-Term Residential Rental Registry; and

12 (d) the rResidential uUnit is not subject to the Inclusionary Affordable Housing  
13 Program set forth in Planning Code Section 415 et seq.; is not a residential hotel unit as defined in  
14 subject to the provisions of Chapter 41, unless such unit has been issued a Permit to Convert  
15 under Section 41.12; is not otherwise a designated as a below market rate or income-  
16 restricted Residential Unit under City, state, or federal law; and no other requirement of federal or  
17 state law, this Municipal Code, or any other application applicable law or regulation prohibits the  
18 permanent resident from subleasing, renting, or otherwise allowing Short-Term Residential Rental of  
19 the rResidential uUnit.

20 Short-Term Residential Rental Registry or Registry. A database of information  
21 maintained by the Department that includes information regarding pPermanent rResidents who are  
22 permitted to offer rResidential uUnits for Short-Term Residential Rental. Only one Permanent  
23 Resident per Residential Unit may be included on the Registry at any given time. The rRegistry  
24 shall be available for public review to the extent required by law, except that, to the extent permitted by  
25

1 law, the Department shall redact any ~~p~~Permanent ~~r~~Resident names from the records available for  
2 public review.

3 ~~(e) — Tourist or Transient Use. Any ~~U~~use of a ~~r~~Residential ~~u~~Unit for occupancy for~~  
4 ~~less than a 30-day term of tenancy, or occupancy for less than 30 days of a ~~r~~Residential ~~u~~Unit~~  
5 ~~leased or owned by a ~~b~~Business ~~e~~Entity, whether on a short-term or long-term basis,~~  
6 ~~including any occupancy by employees or guests of a ~~b~~Business ~~e~~Entity for less than 30 days~~  
7 ~~where payment for the ~~r~~Residential ~~u~~Unit is contracted for or paid by the ~~b~~Business ~~e~~Entity.~~

8 ~~(d) — Permanent Resident. A person who occupies a residential unit for at least 60~~  
9 ~~consecutive days with intent to establish that unit as his or her principal place of residence.~~

10 ~~(e) — Conversion or Convert. The change of the use or to rent a residential unit from~~  
11 ~~residential use to tourist or transient use.~~

12 ~~(f) — Owner. Owner includes any person who is the owner of record of the real property.~~  
13 ~~Owner includes a lessee where an interested party alleges that a lessee is offering a residential unit for~~  
14 ~~tourist or transient use.~~

15 ~~(g) — Interested Party. A permanent resident of the building in which the tourist or transient~~  
16 ~~use is alleged to occur, the City and County of San Francisco, or any non-profit organization exempt~~  
17 ~~from taxation pursuant to Title 26, Section 501 of the United States Code, which has the preservation~~  
18 ~~or improvement of housing as a stated purpose in its articles of incorporation or bylaws.~~

19 ~~(h) — Director. The Director of the Department of Building Inspection.~~

## 21 **SEC. 41A.5. UNLAWFUL CONVERSION; REMEDIES.**

22 **(a) Unlawful Actions.** Except as set forth in subsection 41A.5(g), ~~i~~It shall be unlawful  
23 for

24 (1) any ~~O~~owner to offer an ~~a~~apartment ~~R~~residential ~~U~~unit for rent for ~~T~~tourist or  
25 ~~T~~transient ~~U~~use;

1 (2) any Owner to offer a Residential Unit for rent to a Business Entity  
2 that will allow the use of a Residential Unit for Tourist or Transient Use; or

3 (3) any Business Entity to allow the use of a Residential Unit for Tourist  
4 or Transient Use.

5 (b) **Records Required.** The Owner and Business Entity, *if any*, shall retain and  
6 make available to the Department ~~or Building Inspection occupancy~~ records to demonstrate  
7 compliance with this Chapter 41A upon written request as provided herein. Any Permanent Resident  
8 offering his or her Primary Residence as a Short-Term Residential Rental shall retain and make  
9 available to the Department records to demonstrate compliance with this Chapter 41A, including but  
10 not limited to records demonstrating Primary Residency, and the number of days per calendar year he  
11 or she has occupied the Residential Unit, and the number of days per calendar year, with dates  
12 and the duration of each stay, the Residential Unit has been rented for Short-Term Residential  
13 Rental Use.

14 (c) **Determination of Violation.** Upon the filing of a written Complaint that an  
15 Owner or Business Entity has engaged in an alleged unlawful eConversion has occurred or  
16 that a Hosting Platform is not complying with the requirements of subsection (g)(54)(A), the  
17 Director shall take reasonable steps necessary to determine the validity of the Complaint.  
18 The Director may independently determine whether an Owner or Business Entity may be  
19 renting a Residential Unit for Tourist or Transient Use *as defined in violation of this Chapter*  
20 41A or whether a Hosting Platform has failed to comply with the requirements of subsection  
21 (g)(54)(A). To determine if there is a violation of this Chapter 41A, the Director may initiate an  
22 investigation of the subject property or Hosting Platform's allegedly unlawful activities. This  
23 investigation may include, but is not limited to, an inspection of the subject property and/or a  
24 request for any pertinent information from the Owner, ~~or Business Entity,~~ or Hosting Platform,  
25 such as leases, business records, or other documents. The Director shall have discretion to

1 determine whether there is a potential violation of this Chapter 41A and whether to conduct an  
2 administrative review hearing as set forth below. Notwithstanding any other provision of this  
3 Chapter 41A, any alleged violation related to failure to comply with the requirements of the  
4 Business and Tax Regulations Code shall be enforced by the Treasurer/Tax Collector under  
5 the provisions of that Code.

6 (d) **Civil Action.** Following the filing of a Complaint and the determination of a  
7 violation by the Director through an administrative review hearing as set forth in this Chapter  
8 41A, the City and County of San Francisco may institute civil proceedings for injunctive and  
9 monetary relief against a Hosting Platform for violation of subsection (g)(4)(A) or the City or  
10 any other interested party may institute civil proceedings for injunctive and monetary relief  
11 against an Owner or Business Entity. In addition, the an Owner, or, or Business Entity in  
12 violation of this Chapter or a Hosting Platform in violation of subsection (g)(4)(A) may be liable  
13 for civil penalties of not more than \$1,000 per day for the period of the unlawful rental activity. If  
14 the City or the interested party is the prevailing party, the City or the interested party shall  
15 be entitled to the costs of enforcing this Chapter 41A, including reasonable attorneys' fees, up  
16 to the amount of the monetary award, pursuant to an order of the Court. Any monetary award  
17 obtained by the City and County of San Francisco in such a civil action shall be deposited in  
18 the Mayor's Office of Housing, Housing Affordability Fund less the reasonable costs incurred  
19 by the City and County of San Francisco in pursuing the civil action Department to be used for  
20 enforcement of Chapter 41A. The Department, through the use of these funds, shall  
21 reimburse City departments and agencies, including the City Attorney's Office, for all costs  
22 and fees incurred in the enforcement of this Chapter 41A.

23 (e) **Criminal Penalties.** Any Owner or Business Entity who rents a Residential  
24 Unit for Tourist or Transient Use as defined in violation of this Chapter 41A without correcting  
25 or remedying the violation as provided for in subsection 41A.6(b)(7) shall be guilty of a

1 misdemeanor. Any person convicted of a misdemeanor hereunder shall be punishable by a  
2 fine of not more than \$1,000 or by imprisonment in the County Jail for a period of not more  
3 than six months, or by both. Each ~~R~~esidential ~~U~~nity rented for ~~T~~ourist or ~~T~~ransient ~~U~~se  
4 shall constitute a separate offense.

5 (f) **Method of Enforcement, Director.** The Director shall have the authority to  
6 enforce this Chapter against violations thereof by any or all of the means provided for in this  
7 Chapter 41A.

8 (g) **Exception for Short-Term Residential Rental.**

9 (1) Notwithstanding the restrictions set forth in this Section 41A.5, a Permanent  
10 Resident may offer his or her Primary Residence as a Short-Term Residential Rental if he or she:

11 (A) occupies t~~The Residential Unit is occupied by the Permanent~~  
12 Resident occupies the Residential Unit for no less than 275 days out of the preceding per out of  
13 any given the calendar year in which the Residential Unit is rented as a Short-Term Residential  
14 Rental or, proportional share thereof if he or she if the Permanent Resident has not rented or  
15 owned the Residential Unit for the full preceding calendar year, for no less than 75% of the  
16 days he or she has owned or rented the Residential Unit:

17 (B) The Permanent Resident maintains records for two years  
18 demonstrating compliance with this Chapter, including but not limited to information demonstrating  
19 Primary Residency, the number of days per calendar year he or she has occupied the Residential Unit,  
20 the number of days per calendar year the Residential Unit has been rented as a Short-Term  
21 Residential Rental, and compliance with the insurance requirement in Subsection (D). These records  
22 shall be made available to the Department upon request;

23 (C) The Permanent Resident complies with any and all applicable  
24 provisions of state and federal law and the San Francisco Municipal Code, including but not limited to  
25 the requirements of the Business and Tax Regulations Code by, among any other applicable

1 requirements, collecting and remitting all required transient occupancy taxes, and the occupancy  
2 requirements of the Housing Code;

3 (D) The Permanent Resident maintains homeowner's or renter's  
4 property or casualty liability insurance appropriate to cover the Short-Term Residential Rental  
5 Use in the aggregate of not less than \$150,000\$500,000 or conducts each Short-Term Residential  
6 Rental transaction through a Hosting Platform that provides a guarantee program relating to  
7 property damage in an amount not less than \$150,000 to owners per incident equal or greater  
8 coverage. Such coverage shall defend and indemnify the Owner(s), as named additional  
9 insured, and any tenant(s) in the building for their bodily injury and property damage arising  
10 from the Short-Term Residential Use;

11 (E) registers, and maintains registry of, the The Residential Unit is  
12 registered on the Short-Term Residential Rental Registry prior to offering the Residential Unit for  
13 use as a Short-Term Residential Rental. Offering a Residential Unit for Short-Term  
14 Residential Rental while not maintaining good standing on the registry shall constitute a  
15 violation of this Chapter 41A; and

16 (F) includes the Permanent Resident includes the Department-issued  
17 registration number is included on any a Hosting pPlatform listing or other listing offering the  
18 Residential Unit for use as a Short-Term Residential Rental;

19 (G) For units subject to the rent control provisions of Section 37.3, the  
20 Permanent Resident complies with the initial rent limitation for subtenants and charges no more rent  
21 than the rent the primary Permanent Resident is paying to any landlord per month; and

22 (H) The Permanent Resident can demonstrate to the satisfaction of the  
23 Department that the Residential Unit and the property on which it is located is not subject to any  
24 outstanding Building, Electrical, Plumbing, Mechanical, Fire, Health, Housing, Police, or Planning  
25 Code enforcement, including any notices of violation, notices to cure, orders of abatement, cease and

1 desist orders, or correction notices. The Department shall not include a property that is subject to any  
2 such outstanding violations in the Registry. If such a violation occurs once a Residential Unit has  
3 been included in the Registry, the Department shall suspend the Residential Unit's registration  
4 and registration number until the violation has been cured.

5 (2) Additional Requirements.

6 (A) Offering a Residential Unit for Short-Term Residential Rental,  
7 including but not limited to advertising the Residential Unit's availability, while not maintaining  
8 good standing on the Registry shall constitute an unlawful conversion in violation of this  
9 Chapter 41A and shall subject the person or entity offering the unit in such a manner to the  
10 administrative penalties and enforcement procedures, including civil penalties, of this Chapter.

11 (B) Only one Permanent Resident may be associated with a  
12 Residential Unit on the Registry, and it shall be unlawful for any other person, even if that  
13 person meets the qualifications of a "Permanent Resident", to offer a Residential Unit for  
14 Short-Term Residential Rental.

15 (C) A Permanent Resident offering a Residential Unit for Short-Term  
16 Residential Rental shall maintain a valid business registration certificate.

17 (D) A Permanent Resident offering a Residential Unit for Short-Term  
18 Residential Rental shall post a clearly printed sign inside his or her Residential Unit on the  
19 inside of the front door that provides information regarding the location of all fire extinguishers  
20 in the unit and building, gas shut off valves, fire exits, and pull fire alarms.

21 (23) Short-Term Residential Rental Registry Applications, and Fee, and Reporting  
22 Requirement.

23 (A) Application. Registration shall be for a two-year term, which may be  
24 renewed by the Permanent Resident by filing a completed renewal application. Initial and renewal  
25 applications shall be in a form prescribed by the Department. The Department shall determine, in its

1 sole discretion, the completeness of an application. Upon receipt of a complete initial application,  
2 the Department shall send mailed notice to the owner of record of the Residential Unit,  
3 informing the owner that an application to the Registry for the unit has been received. If the  
4 Residential Unit is in a RH-1(D) zoning district, the Department shall also send mailed notice  
5 to any directly associated homeowner association that has previously requested such notice.

6 Both the initial application and any renewal application shall contain information sufficient to  
7 show that the Residential Unit is the Primary Residence of the applicant, and that the applicant is the  
8 unit's Permanent Resident, and that the applicant has the required insurance coverage and  
9 business registration certificate. In addition to the information set forth here, the Department may  
10 require any other additional information necessary to show the Permanent Resident's compliance with  
11 this Chapter 41A. Primary Residency may shall be established by showing the Residential Unit is  
12 listed as the applicant's residence on at least two of the following: any motor vehicle registration;  
13 driver's license; or voter registration; or tax documents showing the Residential Unit as the  
14 Permanent Resident's Primary Residence for home owner's tax exemption purposes, and/ or any  
15 other information as required by the Department utility bill. A renewal application shall contain  
16 sufficient information to show that the applicant is the Permanent Resident and has occupied the unit  
17 for at least 275 days of each of the two preceding calendar years. Upon the Department's  
18 determination that an application is complete, the unit shall be entered into the Short-Term Residential  
19 Rental Registry and assigned an individual registration number.

20 (B) Fee. The fee for the initial application and for each renewal shall be  
21 \$50, payable to the Director. The application fee shall be due at the time of application. Beginning with  
22 fiscal year 2014-2015, fees set forth in this Section may be adjusted each year, without further action  
23 by the Board of Supervisors, as set forth in this Section. Not later than April 1 Within six months of  
24 the effective operative date of this ordinance and after holding a duly noticed informational  
25 hearing at the Planning Commission, the Director shall report to the Controller the revenues



1 generated by the fees for the prior fiscal year and the prior fiscal year's costs of establishing and  
2 maintaining the registry and enforcing the requirements of this Chapter 41A, as well as any other  
3 information that the Controller determines appropriate to the performance of the duties set forth in this  
4 Chapter. After the hearing by the Planning Commission, but ~~Not~~ later than May 15August 1,  
5 2015, the Controller shall determine whether the current fees have produced or are projected to  
6 produce revenues sufficient to support the costs of establishing and maintaining the registry, enforcing  
7 the requirements of this Chapter 41A and any other services set forth in this Chapter and that the  
8 fees will not produce revenue that is significantly more than the costs of providing such services. The  
9 Controller shall, if necessary, adjust the fees upward or downward for the upcoming fiscal year as  
10 appropriate to ensure that the program recovers the costs of operation without producing revenue that  
11 is significantly more than such costs. The adjusted rates shall become operative on July 1.

12 (C) Reporting Requirement. To maintain good standing on the  
13 Registry, the Permanent Resident shall submit a report to the Department on January 1 of  
14 each year regarding the number of days the Residential Unit or any portion thereof has been  
15 rented as a Short-Term Residential Rental since either initial registration or the last report,  
16 whichever is more recent, and any additional information the Department may require to  
17 demonstrate compliance with this Chapter 41A.

18 (454) Requirements for Hosting Platforms.

19 (A) Notice to Users of Hosting Platform. All Hosting Platforms shall provide  
20 the following information in a notice to any user listing a Residential Unit located within the City and  
21 County of San Francisco through the Hosting Platform's service. The notice shall be provided prior to  
22 the user listing the Residential Unit and shall include the following information: that Administrative  
23 Code Chapters 37 and 41A regulate Short-Term Rental of Residential Units; the requirements for  
24 Permanent Residency and registration of the unit with the Department; and the transient occupancy tax  
25 obligations to the City.

1 (B) A Hosting Platform shall comply with the requirements of the Business  
2 and Tax Regulations Code by, among any other applicable requirements, collecting and remitting all  
3 required Transient Occupancy Taxes, and this provision shall not relieve a Hosting Platform of liability  
4 related to an occupant's, resident's, Business Entity's, or Owner's failure to comply with the  
5 requirements of the Business and Tax Regulations Code. A Hosting Platform shall maintain a record  
6 demonstrating that the taxes have been remitted to the Tax Collector and shall make this  
7 record available to the Department Tax Collector upon request. Additionally, a Hosting  
8 Platform's failure to provide the required notice to users under subsection 41A.5(g)(4)(A) shall  
9 be a violation of this Chapter.

10 (C) Any such violation of a Hosting Platform's responsibilities under this  
11 subsection (g)(5)(A) shall subject the Hosting Platform to the administrative penalties and  
12 enforcement provisions of this Chapter, including but not limited to payment of civil penalties a  
13 fine payable to the Department of up to \$1,000 per day for the period of the failure to  
14 comply provide notice or the failure to provide the required information to the Department, with  
15 the exception that any violation related to failure to comply with the requirements of the  
16 Business and Tax Regulations Code shall be enforced by the Treasurer/Tax Collector under  
17 that Code.

18 (565) The exception set forth in this subsection (g) provides an exception only to the  
19 requirements of this Chapter 41A. It does not confer a right to lease, sublease, or otherwise offer a  
20 residential unit for Short-Term Residential Use where such use is not otherwise allowed by law, a  
21 homeowners association agreement or requirements, any applicable covenant, condition, and  
22 restriction, a rental agreement, or any other restriction, requirement, or enforceable agreement. All  
23 Owners and residents are required to comply with the requirements of Administrative Code Chapter  
24 37, the Residential Rent Stabilization and Arbitration Ordinance, including but not limited to the  
25 requirements of Section 37.3(c).

1 (676) Department Contact Person. The Department shall designate a contact person  
2 for members of the public who wish to file Complaints under this Chapter or who otherwise seek  
3 information regarding this Chapter or Short-Term Residential Rentals. This contact person shall also  
4 provide information to the public upon request regarding quality of life issues, including for example  
5 noise violations, vandalism, or illegal dumping, and shall direct the member of the public and/or  
6 forward any such Complaints to the appropriate City department.

7 (787) Notwithstanding any other provision of this Chapter, nothing in this Chapter  
8 shall relieve an individual, Business Entity, or Hosting Platform of the obligations imposed by any and  
9 all applicable provisions of state law and the San Francisco Municipal Code including but not limited  
10 to those obligations imposed by the Business and Tax Regulations Code. Further, nothing in this  
11 Chapter shall be construed to limit any remedies available under any and all applicable provisions of  
12 state law and the San Francisco Municipal Code including but not limited to the Business and Tax  
13 Regulations Code.

14 (98) Annual Department Reporting Requirement. Within one year of the  
15 effective date of this ordinance and annually thereafter, the Department shall provide a report  
16 to the Board of Supervisors regarding the Department's administration and enforcement of the  
17 Short-Term Residential Rental program. The study shall make recommendations regarding  
18 proposed amendments to this Chapter 41A necessary to reduce any adverse effects of the  
19 Short-Term Residential Rental program.

20 **SEC. 41A.6. PROCEDURES FOR DETERMINING ADMINISTRATIVE PENALTIES.**

21 (a) **Notice of Complaint.** Within ~~45~~<sup>30</sup> days of the filing of a Complaint and upon  
22 the Director's independent finding that there may be a violation of this Chapter, the Director  
23 shall notify the Owner by certified mail that the Owner's ~~R~~esidential Unit is the subject of  
24 an investigation for an unlawful use and provide the date, time, and place of an administrative  
25 review hearing in which the eOwner can respond to the Complaint. If the Director finds there

1 is no violation of this Chapter or basis for an investigation for an unlawful activity, the Director  
2 shall so inform the complainant within 30 days of the filing of the Complaint. If the Complaint  
3 concerns the failure of a Hosting Platform to comply with the requirements of subsection  
4 (g)(54)(A), within 1530 days of the filing of the Complaint and upon the Director's independent  
5 finding that there may be a violation of this Chapter, the Director shall notify the Hosting  
6 Platform by certified mail that the Hosting Platform is the subject of an investigation for failure  
7 to comply with the requirements of this Chapter that subsection and provide the date, time,  
8 and place of an administrative review hearing in which the Hosting Platform can respond to  
9 the Complaint.

10 (b) **Administrative Review Hearings.** In the event the Director determines that an  
11 administrative review hearing shall be conducted, the Director's appointed hearing officer will  
12 hold an administrative review hearing within ~~60~~45 days of the filing of the ~~Complaint~~  
13 Director's finding that there may be a violation of this Chapter 41A to review all information  
14 provided by the Interested Party, members of the public, City staff, and the Owner or Hosting  
15 Platform for the investigation and the hearing officer shall thereafter make a determination  
16 whether the Owner or Hosting Platform has violated this Chapter.

17 (1) For hearings regarding alleged unlawful conversions, Anotice of the  
18 hearing shall be conspicuously posted on the building that is the subject of the hearing. The  
19 ~~Owner shall state under oath at the hearing that the notice remained posted for at least~~  
20 ~~seven calendar days prior the hearing.~~ The Director shall appoint a hearing officer to conduct  
21 the hearing.

22 (2) **Pre-hearing Submission.** No less than ten ~~working~~ days prior to the  
23 administrative review hearing, parties to the hearing shall submit written information to the  
24 Director including, but not limited to, the issues to be determined by the hearing officer and  
25

1 the evidence to be offered at the hearing. Such information shall be forwarded to the hearing  
2 officer prior to the hearing along with any information compiled by the Director.

3 (3) Hearing Procedure. If more than one hearing is requested for Residential  
4 Units located in the same building at or about the same time, the Director shall consolidate  
5 all of the hearings into one hearing. The hearing shall be ~~tape~~ recorded. Any party to the  
6 hearing may at his or her own expense cause the hearing to be recorded by a certified court  
7 reporter. Parties may be represented by counsel and shall have the right to cross-examine  
8 witnesses. All testimony shall be given under oath. Written decisions and findings shall be  
9 rendered by the hearing officer within ~~20~~30 working days of the hearing. Copies of the findings  
10 and decision shall be served upon the parties by certified mail. A notice that a copy of the  
11 findings and decision is available for inspection between the hours of 9:00 a.m. and 5:00 p.m.  
12 Monday through Friday shall be posted by the Owner or the Director in the building in the  
13 same location in which the notice of the administrative review hearing was posted.

14 (4) Failure to Appear. In the event the Owner, authorized Hosting Platform  
15 representative, or an interested party fails to appear at the hearing, the hearing officer may  
16 nevertheless make a determination based on the evidence in the record and files at the time  
17 of the hearing, and issue a written decision and findings.

18 (5) Finality of the Hearing Officer's Decision and Judicial Review. The  
19 decision of the hearing officer shall be final. Within 20 days after service of the hearing  
20 officer's decision, any party may seek judicial review of the hearing officer's decision.

21 (6) Hearing Officer Decision and Collection of Penalties. If ~~any imposed~~  
22 ~~administrative penalties and costs have not been deposited at the time of the Hearing~~  
23 ~~Officer's decision~~ Upon the Hearing Officer's decision, the Director may proceed to collect the  
24 penalties and costs pursuant to the lien procedures set forth in Subsection 41A.6(ed),  
25 consistent with the Hearing Officer's decision.

1 (7) Remedy of Violation. If the Hearing Officer determines that a violation has  
2 occurred, the Hearing Officer's Decision ~~should~~shall:

3 (A*i*) Specify a reasonable period of time during which the Owner,  
4 Business Entity, or Hosting Platform must correct or otherwise remedy the violation; ~~and~~

5 (B*ii*) ~~State that if the violation is not corrected or otherwise remedied~~  
6 ~~within this period, Detail the amount of any administrative penalties the O~~wner or Hosting  
7 Platform shall be ~~may be~~ required to pay ~~the administrative penalties~~as set forth in Subsection  
8 41A.6(c); ~~and~~.

9 (C) For violations by Owners, S~~state that if the violation is not corrected~~  
10 ~~or otherwise remedied within this period, the Department shall remove or prohibit the registration~~  
11 ~~of the Residential Unit from the Short-Term Residential Registry for one year even if the~~  
12 ~~Residential Unit otherwise meets the requirements for Short-Term Residential Rental and may~~  
13 ~~prohibit the offending Owner from including such Residential Unit on any Hosting Platform for~~  
14 ~~a period of one year.~~

15 (8) If the Hearing Officer determines that no violation has occurred, the  
16 determination is final.

17 (c) **Imposition of *Administrative* Penalties for Unabated Violations and**  
18 **Enforcement Costs.**

19 (1) Administrative Penalties. ~~If the violation has continued unabated beyond~~  
20 ~~the time specified in the notice required by the Hearing Officer~~ determines that a violation has  
21 occurred, an administrative penalty ~~of~~ shall be assessed as follows:

22 (A) for the initial violation, not more than four times the standard hourly  
23 administrative rate of ~~\$104.00~~121.00 ~~shall be charged~~ for each unlawfully converted unit, or for  
24 each identified failure of a Hosting Platform to comply with the requirements of subsection  
25

1 (g)(54), per day from the day the unlawful use activity commenced notice of Complaint until  
2 such time as the unlawful use activity terminates;

3 (B) for the second violation within six months of any hearing held  
4 pursuant to this Chapter by the same Owner(s), Business Entity, or Hosting Platform, not more  
5 than eight times the standard hourly administrative rate of \$121.00 for each unlawfully converted unit,  
6 or for each identified failure of a Hosting Platform to comply with the requirements of  
7 subsection (g)(54), per day from the day the unlawful use activity commenced until such time as the  
8 unlawful use activity terminates; and

9 (C) for the third and any subsequent violation within 12 months of any  
10 hearing held pursuant to this Chapter by the same Owner(s), Business Entity, or Hosting  
11 Platform, not more than twelve times the standard hourly administrative rate of \$121.00 for each  
12 unlawfully converted unit or for each identified failure of a Hosting Platform to comply with the  
13 requirements of subsection (g)(54) per day from the day the unlawful use activity commenced  
14 until such time as the unlawful use activity terminates.

15 (2) ~~Enforcement Costs. The Owner or Hosting Platform shall reimburse the~~  
16 ~~City for the costs of enforcement of this Chapter, which shall include, but not be limited to,~~  
17 ~~reasonable attorneys' fees.~~

18 ~~(3) Prohibition on Registration and Listing Unit(s) on Any Hosting Platform. If the~~  
19 ~~violation has continued unabated beyond the time specified in the notice required by the~~  
20 ~~Hearing Officer. In the event of multiple violations, the Department shall remove the Residential~~  
21 ~~Unit(s) from the Registry for one year and include the Residential Unit(s) on a list maintained by~~  
22 ~~the Department of Residential Units that may not be listed by any Permanent Resident on any~~  
23 ~~Hosting Platform until compliance. Any Owner or Business Entity who continues to list a Residential~~  
24 ~~Unit in violation of this section shall be liable for additional administrative penalties and civil~~  
25 ~~penalties of up to \$1,000 per day of unlawful inclusion.~~

1 (d) **Notice of Continuing Violation and Imposition of Penalties.** The Director shall  
2 notify the Owner or Hosting Platform by certified mail ~~that of~~ the violation ~~has continued~~  
3 ~~unabated~~ and that administrative penalties shall be imposed pursuant to this Chapter 41A.  
4 The notice shall state the time of the ~~continued~~ existence of the violation and the resulting  
5 imposition of penalties. Payment of the administrative penalties and enforcement costs shall  
6 be made within 30 days of the certified mailed notice to the Owner or Hosting Platform. If the  
7 administrative penalties and enforcement costs are not paid, the Director shall refer the matter  
8 to the Treasurer/Tax Collector and/or initiate lien procedures to secure the amount of the  
9 penalties and costs against the real property that is subject to this Chapter, under Article XX  
10 of Chapter 10 of the ~~San Francisco~~ Administrative Code to make the penalty, plus accrued  
11 interest, a lien against the real property regulated under this Chapter. Except for the release of  
12 the lien recording fee authorized by Administrative Code Section 10.237, all sums collected by  
13 the Tax Collector pursuant to this ordinance shall be ~~held in trust by the Treasurer and~~  
14 ~~distributed as provided in Section 41A.5(d) of this Chapter~~ deposited as set forth in subsection  
15 (e) below.

16 (e) **Deposit of Penalties.** ~~Administrative penalties paid pursuant to this Chapter~~  
17 ~~shall be deposited in the Mayor's Office of Housing, Housing Affordability Fund less the~~  
18 ~~reasonable costs incurred by the City and County of San Francisco in pursuing enforcement~~  
19 ~~under this Chapter 41A. If enforcement costs were imposed, such funds shall be distributed~~  
20 ~~according to the purpose for which they were collected. Any fees and penalties collected~~  
21 pursuant to this Chapter 41A shall be deposited in the Department, which shall reimburse City  
22 departments and agencies, including the City Attorney's Office, for all costs and fees incurred  
23 in the enforcement of this Chapter 41A.



1           Section 3. The Planning Code is hereby amended by revising Sections 102.7, 102.13,  
2   790.88 and 890.88, to read as follows:

3  
4           **SEC. 102.7. DWELLING UNIT.**

5           A room or suite of two or more rooms that is designed for, or is occupied by, one family  
6   doing its own cooking therein and having only one kitchen. A housekeeping room as defined  
7   in the Housing Code shall be a dwelling unit for purposes of this Code. For the purposes of  
8   this Code, a live/work unit, as defined in Section 102.13 of this Code, shall not be considered  
9   a dwelling unit. Notwithstanding the foregoing, use of a dwelling unit as a Short-Term Residential  
10   Rental in compliance with Administrative Code Section 41A.5 shall not alter the use type as a  
11   residential use.

12           \* \* \* \*

13  
14           **SEC. 102.13. LIVE/WORK UNIT.**

15           A live/work unit is a structure or portion of a structure combining a residential living  
16   space for a group of persons including not more than four adults in the same unit with an  
17   integrated work space principally used by one or more of the residents of that unit; provided,  
18   however, that no otherwise qualifying portion of a structure which contains a Group A  
19   occupancy under the San Francisco Building Code shall be considered a live/work unit.  
20   Notwithstanding the foregoing, use of a live/work unit as a Short-Term Residential Rental in  
21   compliance with Administrative Code Section 41A.5 shall not alter the use type as a live/work unit.

22           \* \* \* \*

23  
24           **SEC. 790.88. RESIDENTIAL USE.**

1 A use which provides housing for San Francisco residents, rather than visitors,  
2 including a dwelling unit or group housing, as defined in Subsections (a) and (b) below, or a  
3 residential hotel, as defined in Section 790.47 of this Code and in Chapter 41 of the San  
4 Francisco Administrative Code. Notwithstanding the foregoing, use of a dwelling unit as a Short-  
5 Term Residential Rental in compliance with Administrative Code Section 41A.5 shall not alter the use  
6 type as a residential use.

7 (a) Dwelling Unit. A residential use which consists of a suite of two or more rooms  
8 and includes sleeping, bathing, cooking, and eating facilities, but has only one kitchen.

9 (b) Group Housing. A residential use which provides lodging or both meals and  
10 lodging without individual cooking facilities for a week or more at a time in a space not defined  
11 as a dwelling unit. Group housing includes, but is not limited to, a rooming house, boarding  
12 house, guest house, lodging house, residence club, commune, fraternity and sorority house,  
13 monastery, nunnery, convent, and ashram. It also includes group housing operated by a  
14 medical or educational institution when not located on the same lot as such institution.

15 \* \* \* \*

#### 16 17 **SEC. 890.88. RESIDENTIAL USE.**

18 A use which provides housing for San Francisco residents, rather than visitors,  
19 including a dwelling unit or group housing, as defined in Subsections (a) and (b) below, or a  
20 residential hotel, as defined in Section 890.47 of this Code and in Chapter 41 of the San  
21 Francisco Administrative Code. Notwithstanding the foregoing, use of a dwelling unit as a Short-  
22 Term Residential Rental in compliance with Administrative Code Section 41A.5 shall not alter the use  
23 type as a residential use.

24 (a) Dwelling Unit. A residential use which consists of a suite of two or more rooms  
25 and includes sleeping, bathing, cooking, and eating facilities, and has only one kitchen.

1 (b) Group Housing. A residential use which provides lodging or both meals and  
2 lodging without individual cooking facilities for a week or more at a time in a space not defined  
3 as a dwelling unit. Group housing includes, but is not limited to, a roominghouse, boarding  
4 house, guest house, lodging house, residence club, commune, fraternity and sorority house,  
5 monastery, nunnery, convent, and ashram. It also includes group housing operated by a  
6 medical or educational institution when not located on the same lot as such institution.

7 (c) Single Room Occupancy (SRO) Unit. A dwelling unit or group housing room  
8 consisting of no more than one occupied room with a maximum gross floor area of 350 square  
9 feet and meeting the Housing Code's minimum floor area standards. The unit may have a  
10 bathroom in addition to the occupied room. As a dwelling unit, it would have a cooking facility  
11 and bathroom. As a group housing room, it would share a kitchen with one or more other  
12 single room occupancy unit/s in the same building and may also share a bathroom. A single  
13 room occupancy building (or "SRO" building) is one that contains only SRO units and non  
14 nonaccessory living space.

15  
16 Section 4. Other Uncodified Provisions.

17 (a) Effective Date. This ordinance shall become effective 30 days after enactment.  
18 Enactment occurs when the Mayor signs the ordinance, the Mayor returns the ordinance  
19 unsigned or does not sign the ordinance within ten days of receiving it, or the Board of  
20 Supervisors overrides the Mayor's veto of the ordinance.

21 (b) Operative Date. This ordinance shall become operative on February 1, 2015.

22 (c) Undertaking for the General Welfare. In enacting and implementing this  
23 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not  
24 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it  
25

1 would be liable in money damages to any person who claims that such breach proximately  
2 caused injury.

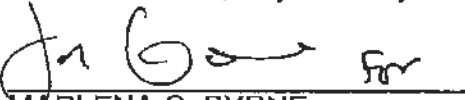
3 (ed) No Conflict with State or Federal Law. Nothing in this ordinance shall be  
4 interpreted or applied so as to create any requirement, power, or duty in conflict with any  
5 State or federal law.

6 (de) Severability. If any of section, subsection, sentence, clause, phrase or word of  
7 this ordinance is for any reason held to be invalid or unconstitutional by a decision of any  
8 court of competent jurisdiction, such decision shall not affect the validity of the remaining  
9 portions of the ordinance. The Board of Supervisors hereby declares that it would have  
10 passed this ordinance and each and every section, subsection, sentence, clause, phrase, and  
11 word not declared invalid or unconstitutional without regard to whether any other portion of  
12 this ordinance would be subsequently declared invalid or unconstitutional.

13 (ef) Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
17 additions, and Board amendment deletions in accordance with the "Note" that appears under  
18 the official title of the ordinance.

19  
20 APPROVED AS TO FORM:  
DENNIS J. HERRERA, City Attorney

21  
22 By:

  
MARLENA G. BYRNE  
Deputy City Attorney

23  
24  
25  
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## City and County of San Francisco

### Tails Ordinance

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

**File Number:** 140381

**Date Passed:** October 21, 2014

Ordinance amending the Administrative Code to provide an exception for permanent residents to the prohibition on short-term residential rentals under certain conditions; to create procedures, including a registry administered by the Planning Department, for tracking short-term residential rentals and compliance; to establish an application fee for the registry; amending the Planning Code to clarify that short-term residential rentals shall not change a unit's type as residential; affirming the Planning Department's determination under the California Environmental Quality Act; and making findings of consistency with the General Plan, and the eight priority policies of Planning Code, Section 101.1.

September 15, 2014 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

September 15, 2014 Land Use and Economic Development Committee - CONTINUED AS AMENDED

September 29, 2014 Land Use and Economic Development Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

September 29, 2014 Land Use and Economic Development Committee - RECOMMENDED AS AMENDED

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - NOT AMENDED

Ayes: 5 - Avalos, Campos, Kim, Mar and Yee  
Noes: 6 - Breed, Chiu, Cohen, Farrell, Tang and Wiener

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - AMENDED

Ayes: 11 - Avalos, Breed, Campos, Chiu, Cohen, Farrell, Kim, Mar, Tang, Wiener and Yee

October 07, 2014 Board of Supervisors - NOT AMENDED

Ayes: 5 - Avalos, Campos, Kim, Mar and Yee

Noes: 6 - Breed, Chiu, Cohen, Farrell, Tang and Wiener

October 07, 2014 Board of Supervisors - PASSED ON FIRST READING AS AMENDED

Ayes: 7 - Breed, Chiu, Cohen, Farrell, Kim, Tang and Wiener

Noes: 4 - Avalos, Campos, Mar and Yee

October 07, 2014 Board of Supervisors - DUPLICATED AS AMENDED

October 21, 2014 Board of Supervisors - NOT AMENDED

Ayes: 5 - Avalos, Campos, Kim, Mar and Yee

Noes: 6 - Breed, Chiu, Cohen, Farrell, Tang and Wiener

October 21, 2014 Board of Supervisors - NOT AMENDED

Ayes: 5 - Avalos, Campos, Kim, Mar and Yee

Noes: 6 - Breed, Chiu, Cohen, Farrell, Tang and Wiener

October 21, 2014 Board of Supervisors - NOT AMENDED

Ayes: 5 - Avalos, Campos, Kim, Mar and Yee

Noes: 6 - Breed, Chiu, Cohen, Farrell, Tang and Wiener


October 21, 2014 Board of Supervisors - FINALLY PASSED

Ayes: 7 - Breed, Chiu, Cohen, Farrell, Kim, Tang and Wiener

Noes: 4 - Avalos, Campos, Mar and Yee

File No. 140381

I hereby certify that the foregoing  
Ordinance was FINALLY PASSED on  
10/21/2014 by the Board of Supervisors of  
the City and County of San Francisco.

  
\_\_\_\_\_  
Angela Calvillo  
Clerk of the Board

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Date Approved

San Francisco, CA

Attachment 2



**APPLICATION**

# SHORT-TERM RESIDENTIAL RENTAL REGISTRATION

**San Francisco  
Planning**

SAN FRANCISCO PLANNING DEPARTMENT  
1690 MISSION STREET, SUITE 400  
SAN FRANCISCO, CA 94103-2479  
MAIN: (415) 558-6378 SPPLANNING.ORG

**Applicant Information**

Name: \_\_\_\_\_ ☐ This is the primary contact person for guests.

Email Address: \_\_\_\_\_ Phone: \_\_\_\_\_

Current Address (including Unit #): \_\_\_\_\_

Zip Code: \_\_\_\_\_ Lot/Block: \_\_\_\_\_ Zoning District: \_\_\_\_\_

☐ Own ☐ Rent (Please check) \_\_\_\_\_ Monthly payment or rent: \$ \_\_\_\_\_

How long have you been a San Francisco resident? Years: \_\_\_\_\_ Months: \_\_\_\_\_

**Managing Agent Information (if applicable)**

*If another person will be managing your bookings and/or interactions with guests, list the agent, or representative's information in this section.*

Agent Name: \_\_\_\_\_ ☐ This is the primary contact person for guests.

Agency Name: \_\_\_\_\_

Address: \_\_\_\_\_ City/State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Email Address: \_\_\_\_\_ Phone: \_\_\_\_\_

**Unit Information**

How long have you resided at this address? Years: \_\_\_\_\_ Months: \_\_\_\_\_

What is your maximum guest occupancy? \_\_\_\_\_ guest maximum when I am present \_\_\_\_\_ guest maximum when I am not present

Bedrooms: \_\_\_\_\_ Is this unit rent controlled? ☐ Yes ☐ No

**Rental Information**

How do you intend to rent your unit? (Please check one)

☐ Renting individual room(s) when I am present for approximately \_\_\_\_\_ nights/year **OR**

☐ Renting my entire unit for approximately \_\_\_\_\_ nights/year (maximum 90 nights) **OR**

☐ Renting both my entire unit (max. 90 nights) for approximately \_\_\_\_\_ nights/year when I am not present **and** renting individual rooms when I am present for approximately \_\_\_\_\_ nights/year.

How many rooms do you plan to rent to guests?

\_\_\_\_\_ rooms when I am also present

\_\_\_\_\_ rooms when I am not present

Please list any and all online hosting platforms on which you plan to list your unit, including personal webpages:

**Sign Here** Signature of applicant: \_\_\_\_\_

Date: \_\_\_\_\_

**AFFIDAVIT****SHORT-TERM RESIDENTIAL RENTAL REGISTRATION**

I authorize, under penalty of perjury, that the information contained in this application and all documents tenured in connection with this application are accurate and complete. I certify that I have reviewed Chapter 41A of the Administrative Code (the Residential Unit Conversion and Demolition Ordinance) and the Planning Code, and its limitations, conditions and stipulations, and found nothing that would preclude the use of my property as a short-term residential rental, including verifying that I have no known City code violations. Furthermore, I certify that I will comply with all limitations, conditions and stipulations of the Short-Term Residential Rental Ordinance including but not limited to: Residing in the registered unit for no less than 275 nights of any given calendar year; maintaining records for two years which demonstrate compliance with the Short-Term Residential Rental Ordinance; paying all applicable taxes; maintaining a valid business registration certificate; maintaining adequate liability insurance coverage; posting the issued registration number on all listings; remaining in compliance with all applicable City codes; posting clearly printed signs inside the front door of the unit that provide information regarding the location of all fire extinguishers in the unit and building, gas shut off valves, fire exits and pull fire alarms; and, reporting annually to the Department, the number of nights the residential unit has been rented as a short-term residential rental. Additionally, if my unit is rent controlled, I certify that I will adhere to the rent limitations set forth by Section 37.3 of the San Francisco Rent Ordinance. I understand that failure to comply with any of the above listed conditions, in addition to those set forth in the Short-Term Residential Rental Ordinance, will be cause for enforcement action by the Department, resulting in the accrual of fines and penalties and/or prohibition from the Short-Term Residential Rental Registry.

**Sign Here**

Signature of applicant: \_\_\_\_\_

Date: \_\_\_\_\_

**Office Use Only:**

Registration #:

Application #:

**Forms of ID Presented:**

<input type="checkbox"/> Driver's License	Date Issued on DL: _____	Date Expires on DL: _____
<input type="checkbox"/> State ID Card	Date Issued on ID: _____	Date Expires on ID: _____
<input type="checkbox"/> Homeowner's Tax Exemption	Date of Receipt: _____	
<input type="checkbox"/> Voter Registration	Date Issued: _____	
<input type="checkbox"/> Vehicle Registration	Date Issued on VR: _____	Date Expires on VR: _____
<input type="checkbox"/> Utility Bill	Type: _____	Date of Bill: _____
<input type="checkbox"/> Additional Utility Bills (does not count as additional form)	Type: _____	Date of Bill: _____
<input type="checkbox"/> Vehicle Insurance	Date Issued: _____	Date Expires: _____
<input type="checkbox"/> Other _____		
<input type="checkbox"/> Other _____		
<input type="checkbox"/> Other _____		

**Business License**

Information:

Date Issued: \_\_\_\_\_

Business Name: \_\_\_\_\_

**Insurance  
Information:**

Carrier: \_\_\_\_\_

Policy Type: \_\_\_\_\_

Date of Coverage: \_\_\_\_\_

Amount of Coverage: \_\_\_\_\_

# SHORT-TERM RESIDENTIAL RENTAL REGISTRATION



## San Francisco Planning

SAN FRANCISCO PLANNING DEPARTMENT  
1850 MISSION STREET, SUITE 400  
SAN FRANCISCO, CA 94103 2479  
MAIN: (415) 558-6378 SFPLANNING.ORG

All applicants shall submit as many as possible of the following documents to be reviewed by the Planning Department staff to verify the applicant's residency. Staff reserves the right to refuse applications where materials are found to be incomplete or inaccurate.

### SECTION A:

All numbered items are required of every applicant:

1. An active Business Registration Certificate issued by the San Francisco Treasurer and Tax Collector's Office
2. Application for Short-Term Residential Rental Registration
3. Proof of liability insurance in the amount of no less than \$500,000
4. Affidavit agreeing to abide by all conditions of the Short-Term Residential Rental Ordinance and all applicable San Francisco laws and regulations
5. Driver's License or State Issued ID Card issued at least 60 days prior and valid for at least the next 6 months
6. A check made out to the "San Francisco Planning Department" for the amount of \$50.00

**Additionally, if you are not the property owner:**

7. A copy of your lease or rental agreement

### SECTION B:

All applicants should submit as many as possible of the following documents listed. **At a minimum, all applicants are required to submit at least two documents from Section B.**

1. Proof of a Homeowner's Tax Exemption\*
2. Original utility bill, issued by a public utility or PG&E, at least 60 days prior\*\*
3. Vehicle registration, issued at least 60 days prior
4. Proof of car insurance, showing address of registration, issued at least 60 days prior
5. Original Voter Registration Card, or Voter Registration Certificate, issued at least 60 days prior

\* Accepted as a form of residency confirmation only if the Homeowner's Tax Exemption is for a property that is either a single-family dwelling or condominium.

\*\* No copies, no printouts. You may only use utility bills as one form of residency confirmation. Cable, cell phone, and internet bills do not qualify.

San Jose, CA

Attachment 1

**ORDINANCE NO. 29523**

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTIONS 20.30.110 OF CHAPTER 20.30, 20.60.030 OF CHAPTER 20.60 AND 20.200.470 OF CHAPTER 20.200, ADDING NEW SECTIONS 20.40.115 OF CHAPTER 20.40, ~~20.70.130 OF CHAPTER 20.70 AND 20.75.230 OF CHAPTER 20.75,~~ AMENDING PART 2 OF CHAPTER 20.80, AND ADDING A NEW PART 2.5 TO CHAPTER 20.80, ALL OF TITLE 20 OF THE SAN JOSE MUNICIPAL CODE, TO ALLOW AND REGULATE TRANSIENT OCCUPANCY AS AN INCIDENTAL USE OF RESIDENCES AND TO MODIFY PERMITTING REQUIREMENTS AND OCCUPANCY LIMITATIONS FOR BED AND BREAKFAST INNS, TO AMEND AND ADD LONG-TERM ROOM RENTAL LIMITATIONS AND TO MAKE OTHER NON SUBSTANTIVE OR FORMATTING CHANGES WITHIN THESE SECTIONS OF TITLE 20**

**WHEREAS**, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the City has certified that certain Final Program Environmental Impact Report ("FEIR") for the Envision San José 2040 General Plan and the City Council adopted its related Resolution No. 76041 in connection therewith; and

**WHEREAS**, pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that no new effects would occur from and no new mitigation measures would be required for the adoption of this Ordinance and that adoption of this Ordinance is within the scope of and in furtherance of the Envision San José 2040 General Plan FEIR, for which findings were adopted by City Council through its Resolution No. 76041 on November 1, 2011; and

**WHEREAS**, the City Council of the City of San José is the decision-making body for this Ordinance; and

**WHEREAS**, this Council has reviewed and considered the Final EIR and related City Council Resolution No. 76041 prior to taking any approval actions on this Ordinance;

**NOW, THEREFORE**, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

**SECTION 1.** Section 20.30.110 of Chapter 20.30 of Title 20 of the San José Municipal Code is hereby amended to read as follows:

**20.30.110 Incidental Uses**

In addition to the occupancy of a dwelling as a residence, the following incidental uses are permitted:

- A. The rental of rooms in a One-Family Dwelling to up to three (3) Guests; in a Two-Family Dwelling to up to two (2) Guests, by each Family; and in a Multiple Dwelling Unit to up to two (2) Guests per unit, if such use is clearly incidental to the occupancy of the dwelling unit by said Family as its own residence, and such rental is for a period of time longer than thirty (30) days and there are no more than six (6) persons living in the dwelling.
- B. Use of the dwelling, including a permitted Secondary Dwelling or permitted Guesthouse, for Incidental Transient Occupancy in compliance with Part 2.5 of Chapter 20.80.
- C. State-licensed Family Day Care Home
- D. The following non-commercial activities:

1. A garage sale consisting of the occupants' personal property;
2. Sale of goods hand-produced by the occupants;
3. Sales parties held for the purpose of selling goods to invited Guests. Such parties shall be held inside a permanent structure or in the rear yard of the dwelling unit.

E. To qualify as a non-commercial activity:

1. No more than two (2) such sales are allowed in any calendar year;
2. No such sale can be conducted for more than four (4) consecutive days;
3. Such sales shall only be conducted between the hours of 9:00 a.m. and 9:00 p.m.

SECTION 2. Chapter 20.40 of Title 20 of the San José Municipal Code is hereby amended to add a new Section 20.40.115 to be entitled and read as follows:

**20.40.115 Incidental Use, Residential**

Where residential use has been permitted pursuant to a Conditional Use Permit, Special Use Permit or Administrative Permit, Incidental Transient Occupancy in compliance with Part 2.5 of Chapter 20.80 is a permitted incidental use of the permitted dwelling.

SECTION 3. Section 20.60.030 of Chapter 20.60 of Title 20 of the San José Municipal Code is hereby amended to read as follows:

### **20.60.030 Uses**

The use regulations for territory situated in a Planned Development District shall be as follows:

- ~~A. Unless and until a Planned Development Permit has been issued and been~~  
effectuated, property in such territory may be used only as if it were in its base district alone.
- B. If a Planned Development Permit is effective, any use or combination of uses provided for in said permit is allowed in accordance with and in strict compliance with all terms, provisions and conditions of said permit. Each permitted use shall be confined and limited to the particular location designated therefore in said permit. No use, other than the particular uses specified in the permit, shall be permitted, except as set forth elsewhere in this Title 20.
- C. If a Planned Development Permit permits a residential use, Incidental Transient Occupancy in compliance with Part 2.5 of Chapter 20.80 is a permitted use of the permitted dwelling.
- D. If a Planned Development Permit has been issued, the Planned Development District may nevertheless be disregarded and property in such territory used as if it were in its base district alone if such use is confined to part of the subject territory not covered by the permit and a requirement to make such use of such part is not a condition of such permit.

**SECTION 4.** Chapter 20.70 of the San José Municipal Code is hereby amended by adding a Section to be numbered and entitled and read as follows:



**20.70.130 Incidental Use, Residential**

Incidental Transient Occupancy in compliance with Part 2.5 of Chapter 20.80 of a Live/Work Unit or Multiple Dwelling is a permitted incidental use of the dwelling.

SECTION 5. Chapter 20.75 of the San José Municipal Code is hereby amended by adding a Section to be numbered and entitled and read as follows:

**20.75.230 Incidental Use, Residential**

Where residential use has been permitted pursuant to a Conditional Use Permit, Special Use Permit or Administrative Permit, Incidental Transient Occupancy in compliance with Part 2.5 of Chapter 20.80 is a permitted use of the permitted dwelling.

SECTION 6. Part 2 of Chapter 20.80 of Title 20 of the San José Municipal Code is hereby amended to read as follows:

**Part 2**

**Bed and Breakfast Inns**

**20.80.110 Bed and Breakfast Inns - Criteria for Approval**

- A. No Development Permit may be issued for a Bed and Breakfast Inn unless the following criteria are met:
1. The inn is owner-occupied.
  2. The Building is of historical and/or architectural significance and was designed for residential occupancy.
  3. No separate cooking facilities for Guests are provided.
  4. No more than one daily meal, breakfast, is served to Guests.
  5. No more than one Guest Room has an external entryway.

6. No Guest may occupy accommodations in the inn for a period of more than thirty (30) calendar days, counting portions of calendar days as a full calendar day.

7. A certificate of occupancy for Group R occupancy is obtained from the City Building Division, and all applicable Building and Fire regulations are met.

~~8. Any loan funds provided by the City of San José or the redevelopment agency~~  
for rehabilitation and/or repair of the subject Building as a residential Building have been repaired in full.

B. The criteria set forth in subsection A, above, shall be deemed to be conditions of any development permit for a Bed and Breakfast Inn, and failure to adhere to said criteria shall be a violation of this Title.

C. All Development Permits for a Bed and Breakfast Inn shall set forth the maximum number of Guest Rooms or Guests that may occupy the premises, at any given time, for overnight lodging.

SECTION 7. Chapter 20.80 of Title 20 of the San José Municipal Code is hereby amended to by adding a Part to be numbered and entitled and read as follows:

#### **Part 2.5**

#### **Transient Occupancy as an Incidental Use to a Residence**

#### **20.80.150 Definitions**

The definitions set forth in the Section shall govern the interpretation of this Part:

A. "Adjacent Properties" means the dwelling units located to the sides, rear, front, including across the street, above and below, the dwelling unit in which the Incidental Transient Occupancy is located.

- B. "Host" means any Person, as defined in Title 1 of this Code, who is the owner of record of residential real property, or any Person who is a lessee of residential real property pursuant to a written agreement for the lease of such real property, who offers a dwelling unit, or portion thereof, for Incidental Transient Occupancy.
- C. "Host Present" means the Host is present on the premises of the dwelling unit that is being used for Incidental Transient Occupancy during the term of the Transient Occupancy at all times between the hours of 10:00 p.m. and 6:00 a.m.
- D. "Hosting Platform" means a Person that provides a means through which a host may offer a dwelling unit, or portion thereof, for Incidental Transient Occupancy. This service is usually, though not necessarily, provided through an internet based platform and generally allows an owner or tenant to advertise the dwelling unit through a website provided by the Hosting Platform and provides a means for potential Incidental Transient Users to arrange Incidental Transient Occupancy and payment therefor, whether the Transient User pays rent directly to the Host or to the Hosting Platform.
- E. "Incidental Transient Occupancy" means the use or possession or the right to the use or possession of any room or rooms, or portions thereof for dwelling, sleeping or lodging purposes in any One-Family Dwelling, Two Family Dwelling, Multiple Dwelling, Mobilehome, Live/Work Unit, or Secondary Dwelling, by a Transient User.
- F. "Local Contact Person" means a person designated by the Host who shall be available at all twenty-four (24) hours per day, seven (7) days per week during the term of any Transient Occupancy for the purpose of (i.) responding within sixty (60) minutes to complaints regarding condition or operation of the dwelling unit or portion thereof used for Incidental Transient Occupancy, or the conduct of Transient Users; and (ii) taking remedial action to resolve such complaints.

- G. "Primary Residence" means a permanent resident's usual place of return for housing as documented by motor vehicle registration, driver's license, voter registration or other such evidence.
- H. "Transient User" means a person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full calendar days.

**20.80.160 General**

Incidental Transient Occupancy meeting the criteria of this Part is an allowed use in any One-Family Dwelling, Two-Family Dwelling, Multiple Family Dwelling, Mobilehome, Live/Work Unit, Secondary Dwelling or Guest House.

**20.80.170 Performance Criteria**

Incidental Transient Occupancy of a residential dwelling is only allowed as an incidental use of such dwelling if the Incidental Transient Occupancy conforms to each of the performance criteria set forth in Table 20-165 below.

Table 20-165 Performance Criteria	
Number of Occupants One-Family Dwelling or Mobilehome - Host Present	Incidental Transient Occupancy by up to three (3) Transient Users in a One-Family Dwelling or Mobilehome with the Host present.
Number of Occupants in each Dwelling Unit in Two-Family or Multiple Family Dwelling - Host Present	Incidental Transient Occupancy by up to two (2) Transient Users in each dwelling unit in a Two-Family Dwelling or Multiple Family Dwelling with the Host Present.

Number of Occupants - Host Not Present	Incidental Transient Occupancy where the Host is not present shall be limited to the two (2) people in a studio unit, three (3) people in a one bedroom unit and two (2) people per bedroom for each bedroom in excess of one bedroom, but not to exceed ten (10) persons total.
Contact Information - Host Not Present	For Incidental Transient Occupancy where the Host is not present on the premises during the term of the Transient Occupancy, the Host shall provide written notice of the name and telephone number of the Local Contact Person to all Transient Users and to all occupants of all Adjacent Properties.
Annual Limit on Number of Days for Incidental Transient Occupancy	One hundred eighty (180) days per calendar year, no Host Present. Three hundred sixty-five (365) days per calendar year with Host Present.
Parking Requirements for Incidental Transient Occupancy	For Incidental Transient Occupancies with the Host Present, the dwelling unit has the required number of parking spaces for the dwelling type as set forth in Section 20.90.060.
Limitation in Dwellings Subject to Parts 1-6 of Chapter 17.23 of this Code	Incidental Transient Occupancy is only a permitted use in a dwelling that is subject to Parts 1-6 of Chapter 17.23 of this Code, if the Host is a Person who occupies the unit that is being used for Incidental Transient Occupancy for at least sixty (60) consecutive days, with the intent to establish that dwelling as the Host's Primary Residence.
Payment of Transient Occupancy Tax	Transient Occupancy taxes are collected and paid to the City pursuant to Chapter 4.72 and 4.74 of this Code. Transient Occupancy taxes are the responsibility of the Host, but may be paid by a Hosting Platform on behalf of a Host by a Hosting Platform if the Incidental Transient Occupancy is created through a Hosting Platform that has an agreement with the City for collection and payment of such Transient Occupancy taxes.
Compliance with All Requirements of the Housing Code for Dwellings	Any building or portion thereof used for Incidental Transient Occupancy shall comply with the requirements of the Housing Code (Chapter 17.20.)
Recordkeeping Requirements	The Host shall retain records documenting the compliance with these Performance Criteria for a period of three (3) years after each period of Incidental Transient

	Occupancy. The Host shall provide copies of records documenting the compliance with these Performance Criteria, including but not limited to records showing payment of transient occupancy taxes by a Hosting Platform on behalf of a Host, upon request to City Manager, City Attorney, City Auditor or any designee of City Manager, City Attorney or City Auditor.
Review of Incidental Transient Occupancy Use and Criteria	City Council may terminate Incidental Transient Occupancy as a permitted use or modify the criteria for such use at any time. City Council specifically directs that a review of Sections 20.30.110.B, 20.40.115, 20.60.030.C, 20.70.130, 20.75.230 and Part 2.5 of Chapter 20.80 be placed on a City Council agenda no later than eighteen (18) months after the effective date of Ordinance 29523.

SECTION 8. Section 20.200.470 of Chapter 20.200 of Title 20 of the San José Municipal Code is hereby amended to read as follows:

**20.200.470 Guesthouse**

"Guesthouse" means a building which is designed or used to accommodate a maximum of ten (10) Guests, where Guest Rooms are provided (1) for a fixed period of at least thirty (30) consecutive calendar days, in exchange for an agreed payment of a fixed amount of money or other compensation based on the period of occupancy; or (2) for Incidental Transient Occupancy in compliance with Part 2.5 of Chapter 20.80.

PASSED FOR PUBLICATION of title this 9th day of December, 2014, by the following vote:

AYES:            CONSTANT,    HERRERA,    KHAMIS,    LICCARDO,  
                     NGUYEN, OLIVERIO; REED.

NOES:           CAMPOS, KALRA, ROCHA. \_\_\_\_\_

ABSENT:        NONE.

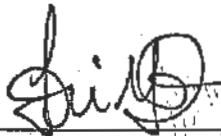
DISQUALIFIED: NONE.

VACANT:        DISTRICT 4.



CHUCK REED  
Mayor

ATTEST:



TONI J. TABER, CMC  
City Clerk



West Hollywood, CA

Attachment 1



FEBRUARY 2, 2015

SUBJECT: SHARED ECONOMY TASK FORCE RECOMMENDATIONS

INITIATED BY: CITY MANAGER'S DEPARTMENT – ARTS & ECONOMIC  
DEVELOPMENT DIVISION  
(Paul Arevalo, City Manager)   
(Maribel Louie, Arts and Economic Development Manager)  
(Laura Minnich, Economic Development Analyst) 

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STATEMENT ON THE SUBJECT:

The City Council will receive recommendations from the Shared Economy Task Force regarding shared ride service companies and short-term rental units.

RECOMMENDATIONS:

1. Approve the Shared Economy Task Force recommendations regarding shared ride service companies.
2. Approve the Shared Economy Task Force recommendations regarding short-term rental units.

ALTERNATE RECOMMENDATION:

1. Approve a different combination of recommendations from the Task Force.

BACKGROUND ANALYSIS:

At the February 18, 2014 City Council meeting, the Council directed staff to form a Shared Economy Task Force comprised of staff, a representative from the Transportation Commission, Planning Commission and Business License Commission as well as the Chamber of Commerce and Visit West Hollywood to further study shared economy business in the City of West Hollywood.

Task Force Members included:

1. Roy Huebner - Planning Commission
2. Lindsey Horvath - Transportation Commission
3. Rob Lo - Business License Commission
4. Genevieve Morrill - Chamber of Commerce
5. Bill Hynes - Visit West Hollywood

The Shared Economy is an emerging market in many cities across the United States and around the world. The question about how and if this new type of business model should be regulated is one currently being tackled in several communities with a large portion of the discussion centered around preserving housing affordability and public safety for residents and visitors alike. For the purposes of West Hollywood's Shared Economy Task Force, the Task Force focused their discussion on policy recommendations and impacts regarding two of the shared economy business models: shared ride service companies and short-term rental units.

### **Community Engagement and Public Outreach**

The City of West Hollywood's Shared Economy Task Force met seven (7) times from July 2014 – January 2015.

<b>Meeting Date</b>	<b>Topic of Discussion</b>	<b>Location</b>
July 23, 2014	General Overview	West Hollywood Library Community Meeting Room
August 27, 2014	Updates from City of West Hollywood Legal Services and Code Enforcement Divisions	West Hollywood Library Community Meeting Room
September 24, 2014	Short-Term Rentals with speakers from Airbnb and LA Short-Term Rental Alliance	West Hollywood Library Community Meeting Room
October 22, 2014	Shared Ride Services with speakers from Uber and Lyft	West Hollywood Library Community Meeting Room
November 19, 2014	Policy Recommendations on Shared Ride Services	Plummer Park
December 17, 2014	Policy Recommendations on Short-Term Rentals	Plummer Park
January 14, 2015	Finalize All Policy Recommendations	Plummer Park

Each meeting included an opportunity for public comment, staff comments, guest subject matter experts, and time for Task Force deliberation. Subject matter experts that presented directly to the Task Force and answered questions about their various business models included representatives from Airbnb, the LA Short-Term Rental Alliance, Uber, and Lyft.

Throughout the duration of the Task Force meetings, staff provided updates on the web page [www.weho.org/sharedeconomy](http://www.weho.org/sharedeconomy). Updates included agendas for each meeting, press releases about the Task Force, a mid-point meeting

summary as well as draft policy recommendations being discussed by the Task Force. Contact information for the staff liaison supporting the Task Force was also listed on the Shared Economy web page. Meeting dates and times were shared with the general public through the City's community calendar as well as through the City's social media channels.

In addition, feedback regarding the shared economy was solicited through EngageWeho.com, one of the City's community engagement platforms. A summary of the feedback received on this platform was shared with the Task Force at its December 17, 2014 meeting. There were 57 interactions with the discussion topic regarding the allowance of short-term rentals. A total of 21 participants provided comments or ideas sharing feedback regarding short-term rentals in West Hollywood. Two-thirds of those respondents indicated a belief that short-term rentals should not be allowed in West Hollywood while one-third of those respondents would like to see short-term rentals allowed in some form.

#### *Taxi Franchise Outreach*

At the request of both City Council and the Task Force, staff held a meeting in November 2014 to hear directly from the taxi franchise operators in West Hollywood to gather feedback regarding the impacts of shared economy businesses on taxis. Representatives from all seven (7) franchise operators attended the meeting to provide input and express their concerns regarding the classification of shared ride companies as Transportation Network Companies (TNCs) by the California Public Utilities Commission (CPUC). Feedback from this meeting was later shared with the Task Force at their November 19, 2014 meeting. A summary of the items discussed during the meeting with the taxi franchise operators included:

- Concerns about the ability of the CPUC to successfully handle enforcement with TNCs
- Interest in having a West Hollywood dedicated TNC regulator from the CPUC
- Requested City support for a County wide or Westside taxi licensing program
- Shared examples from Pasadena and the Coachella Valley to allow for 1-day or 2-day taxi permits in response to demand for concerts or events
- Suggested an educational campaign to residents about safety, coverage, and insurance related to TNCs
- Would like permanent vehicle markings on TNC vehicles rather than temporary ones
- Suggested mandating an airport flat fee match for both TNCs and Taxis
- Would like to see TNCs participate in the California DMV Employer Pull Notice Program (EPN)

The EPN program notifies an employer automatically when an employee's driver's license record has an updated action or activity. Taxi drivers in West Hollywood currently participate in this program. According to the California Department of Motor Vehicles web page, the EPN monitoring has the ability to improve public safety, determines if each driver has a valid driver's license, reveals problem drivers or driving behavior and helps to minimize liability.

### **Shared Ride Services**

Shared Ride services in California are regulated by the California Public Utilities Commission (CPUC) and classified as Transportation Network Companies (TNC). The CPUC has assumed jurisdiction over TNCs pursuant to its declared authority under the Passenger Charter-Party Carriers' Act. TNCs, like all charter-party carriers, are considered distinct from taxis because taxis can be hired on-demand or as a pre-arranged service. TNCs however are always hired on a pre-arranged basis. As a result, taxis, are regulated by local jurisdictions within California while TNCs are regulated at the State level. This determination regarding the regulation of TNCs at the State level framed the discussions held by the Task Force regarding shared ride service companies in West Hollywood.

### **AB 2293**

During the course of the Task Force meetings, California Assembly Bill 2293 was approved amending insurance requirements for TNCs within California with an effective date of July 1, 2015. This legislation received significant media coverage and concluded with an eventual compromise from the TNC operators. The approved legislation requires TNCs to insure drivers as soon as they turn on their ridesharing app of choice regardless of if a passenger is in the vehicle. Prior to its adoption, many TNCs offered drivers commercial insurance only when their app is on and someone had accepted a ride — the coverage then generally lasted until the rider exited the car at their destination. Approved TNC operators in California of Uber, Lyft, SideCar, Wingz, RideLabs LLC, and Shuddle will all be required to follow the adopted changes.

### **Recommendations from the Task Force**

<b>Recommendation Category</b>	<b>Description</b>
Safety	<ul style="list-style-type: none"><li>a. Monitor and support State level legislation that would require shared ride service companies to participate in the DMV Employer Pull Notice Program (EPN) for all drivers</li><li>b. Work with the local LA Office of shared ride service companies to communicate safe drop-off and pick-up locations to both passengers</li></ul>

	<p>and drivers</p> <p>c. Add information to the City Website about the allowance of shared ride service vehicles in West Hollywood and tips for rider safety</p>
Fairness	<p>a. Propose partnership opportunities with the shared ride service companies to provide a community benefit, social service, or senior discount code similar to the community benefit required of taxis</p> <p>b. Support the Taxi Needs Assessment Study that will inform the 2016 RFP for taxi franchise operators within West Hollywood</p> <p>c. Support the evaluation of taxi fees as part of the July 2015 Citywide Fee study and make any appropriate adjustments to the fees as a result</p> <p>d. Initiate discussions with Westside cities regarding a regional taxi licensing program</p> <p>e. Continue ongoing engagement and discussions with taxi companies</p> <p>f. Request trip data from shared ride services similar to the trip data by zip code offered by Uber to the City of Boston for informing visitor travel data to share with Visit West Hollywood</p>
Insurance	<p>a. During the duration of the Task Force meetings AB 2293 was adopted by the California legislature which eliminated the loophole in the insurance requirements for shared ride services and resulted in several changes to insurance requirements effective July 1, 2015.</p>
Enforcement	<p>a. Explore partnering with the City of Los Angeles regarding an enforcement option with the CPUC for the greater Los Angeles region</p> <p>b. Continue enforcement regarding non-authorized vehicles parking in taxi designated loading zones</p> <p>c. Develop ongoing relationships with the shared ride service companies operating within West Hollywood</p> <p>d. Explore designating loading zones as approved locations for safe drop-off and pick-up locations for shared ride services</p>

Like TNCs themselves, the regulatory framework for overseeing shared ride service operators continues to evolve but the CPUC's regulatory authority

appears secure. As the City considers various stakeholder concerns, further issues regarding regulatory authority and enforcement may arise. Staff will continue to monitor developments in addition to the recommendations above.

### **Short-Term Rentals**

Short-term rental regulation is within the City's authority to regulate land use. The term "short-term rental" is not currently defined in the City of West Hollywood's Municipal Code. The Zoning Ordinance, however, defines "hotel" as a "facility with guest rooms or suites, provided with or without meals or kitchen facilities, rented to the general public for overnight or other temporary lodging, typically less than 30 days." A hotel is generally not permitted within the City's residential zoning districts, thus units within residential facilities (i.e. residential rental building, condominium, or single family home) rented for short-term stays constitutes an unlawful use in the City of West Hollywood.

During the course of the Task Force meetings, staff shared with the Task Force examples from several other jurisdictions both within and outside of California regarding varying degrees of allowance of short-term rentals. The Task Force also deliberated regarding the possible allowances of short-term rentals within only select housing types (apartments, condominiums, single family homes, rent stabilized housing, inclusionary housing, and market rate housing). While some cities have approved short-term rentals with specialized permits, the impacts and concerns regarding the inability to protect the quality of life for neighboring tenants in such a densely urban environment as West Hollywood weighed heavily on the Task Force. Concerns were raised about the risks related to entire buildings being turned into short-term rental housing and the lack of existing workforce and affordable housing within West Hollywood.

Feedback from community members during the public comment period at Task Force meetings as well as feedback received on EngageWeho.com collectively shared concerns regarding noise complaints, safety of neighbors, and housing shortages within West Hollywood. The Task Force also heard from West Hollywood residents who found the ability to rent out a room or entire unit as a short-term rental to be an additional source of much needed supplemental income.

As part of the Task Force's evaluation of the possible allowance of short-term rentals, Visit West Hollywood surveyed the local hoteliers regarding the impact of short-term rentals on their business models. Many of the hoteliers commented they did not perceive short-term rentals as competition however if they were to be allowed, suggested the rentals be required to pay the City's Transient Occupancy Tax (TOT).

After careful evaluation of each housing type individually, along with the public comment received and presentations from subject matter experts, the

recommended direction was to affirm and further clarify existing regulations regarding short-term rentals within West Hollywood.

Recommendations from the Task Force

Recommendation Category	Description
Education	<ul style="list-style-type: none"> <li>a. Recommend staff provide sample language to landlords on the City's website that may be used in lease agreements clarifying that short-term rentals are not allowed in West Hollywood</li> <li>b. Add an educational piece to the West Hollywood RSO Building Blocks free educational workshops outlining that short-term rentals are not allowed in West Hollywood</li> <li>c. Direct city staff to work with short-term rental vendors informing them that short-term rentals are not allowed within West Hollywood and requesting they add a disclaimer to their website for those searching for units and interested in listing units within West Hollywood</li> <li>d. Direct city staff to create an educational campaign to residents and landlords informing them that short-term rentals are not allowed in West Hollywood</li> </ul>
Enforcement	<ul style="list-style-type: none"> <li>a. Recommend a new city ordinance be drafted specifically speaking to the definition of short-term rentals to assist with enforcement and update the municipal code and the zoning ordinance to reflect similar language clarifying that short-term rentals are not allowed in West Hollywood</li> <li>b. Direct Code Enforcement staff to begin tracking noise complaints that are attributable directly to short-term rental listings when applicable</li> </ul>

Staff will continue to monitor developments in addition to the recommendations above.

CONFORMANCE WITH VISION 2020 AND THE GOALS OF THE WEST HOLLYWOOD GENERAL PLAN:

This item is consistent with the *Primary Strategic Goal* to **Maintain the City's unique urban balance with emphasis on residential neighborhood livability** and is consistent with the *On-going Strategic Programs* of:

**Promote Economic Development while Maintaining Business Vitality & Diversity and Adaptability to Future Change**

General Plan Goals:

**Goal M-5:** Create an environmentally and financially sustainable transportation network that provides for the mobility and livability needs of West Hollywood residents, businesses and visitors.

**Goal ED 1.2:** Seek a balance between visitor-serving and local-serving commercial activity.

**EVALUATION:**

Legal Services Division staff along with the Arts and Economic Development Division staff will continue to monitor legislation at the State level regarding shared ride service operators.

Upon adoption of an ordinance, Code Enforcement Division staff will monitor and track the number of complaints and violations when applicable related to short-term rental properties and provide regular updates to the City Manager. A decrease in the number of violations over time may indicate a successful outreach campaign.

**ENVIRONMENTAL SUSTAINABILITY AND HEALTH:**

The City will encourage environmentally friendly practices and procedures relative to communications and civic engagement regarding Shared Economy businesses and utilize digital formats, as appropriate in outreach materials.

**OFFICE OF PRIMARY RESPONSIBILITY:**

City Manager's Department – Arts and Economic Development Division

**FISCAL IMPACT:**

There is no fiscal impact of the staff recommendations listed. Any additional labor required of City staff for the implementation or compliance with an ordinance regarding short-term rentals would be absorbed into existing work programs.



**Attachment C**

**The Local Economic Impact of Short Term Rentals in Los Angeles**

**Report by TXP, Inc.**



# The Local Economic Impact of Short Term Rentals in Los Angeles



TXP, Inc.  
1310 South 1st Street #105  
Austin, Texas 78704  
[www.txp.com](http://www.txp.com)

## Overview

Short term rentals (STR) are an increasingly popular lodging choice for travellers in almost all communities in the United States. With the growth of web portals such as *HomeAway* and others, visitors are better able to select the accommodation style that fits their needs. Communities are increasingly focused on how best to appropriately incorporate STR properties into their existing regulatory and fiscal framework without undue constraints on property owners and managers. In an effort to inform this process, the local vacation rental advocacy group, the Los Angeles Short Term Rental Alliance, commissioned an analysis of the economic impact of the operation of STRs in Los Angeles County.

Los Angeles is one of the world's leading tourist destinations with a wide variety of attractions from culture and entertainment to its coastline and natural scenery. The area is also a global center of economic activity as the Los Angeles County has an economy larger than all but 20 countries in the world. The many reasons why visitors travel to the Los Angeles area necessitate a range of diverse lodging options. STRs in Los Angeles reflect this; different properties cater to different market segments including business travelers, leisure visitors, families, and large groups. Throughout the Los Angeles area travellers can stay in STRs that include mountain getaways, beach bungalows, and trendy urban lofts with lodging options for both budget-minded travel and one-of-a-kind luxury accommodations.

For the purpose of this study, STRs are defined as residential properties that are rented out by an individual or property manager in Los Angeles County. Any properties self-identifying as a short term or vacation rentals, as well as properties listed on major short term and vacation rental websites, were included. These properties tend to be rented out for leisure travel and for less than a month at a time, though increasingly business travellers have added to the demand for STRs in major metropolitan areas across the nation.

The report that follows provides an overview of trends in the Los Angeles area, specific characteristics of the local STR market, and a discussion of the methodology, findings, and conclusions of the economic impact analysis. The economic impacts of the STRs in Los Angeles County are estimated at the metropolitan statistical area level, specifically the Los Angeles-Long Beach-Anaheim MSA, as the indirect and induced effects of STR activity in Los Angeles County ripple out throughout the entire metropolitan region.

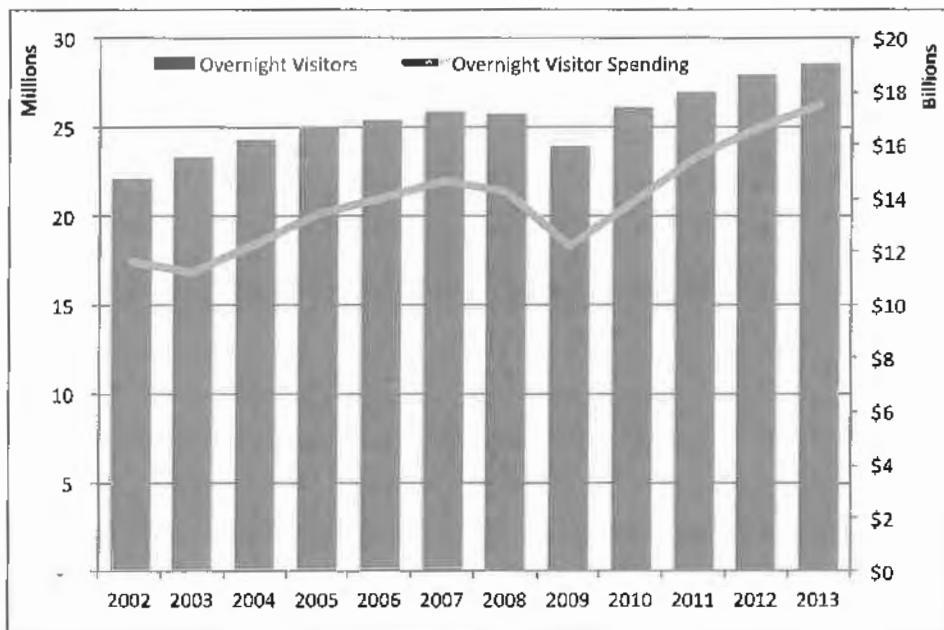
The overall impact of short term rentals in the Los Angeles area is impressive, accounting for \$1.4 billion in total economic activity and more than 12,300 jobs in 2013.

## Tourism and the Economy of Los Angeles

### Overall Context

Tourism is an essential part of the Los Angeles and continues to expand rapidly as this sector and the overall area economy rebound from the global financial crisis and recession. In 2013, the third consecutive year of record-breaking growth, Los Angeles County saw its highest ever number of visitors and direct tourism spending in the area. More than 28.5 million overnight visitors spent \$17.5 billion during their stay in Los Angeles, an increase of 5.4 percent over total overnight visitor spending the previous year. The Los Angeles Tourism and Convention Board expects the area will welcome 50 million annual visitors by 2020.

**Figure 1: Overnight Visitors and Visitor Spending**



Source: Los Angeles Tourism and Convention Board; Tourism Economics

The hotel industry has seen similarly unprecedented growth in demand for rooms. Occupancy rates have increased to records levels each of the past three years to nearly 78 percent in 2013, one of the highest in the country. The national average was 62.3 percent in 2013. Increased activity from the film industry, conventions and meetings, international tourism, and the resurgence of downtown Los Angeles have contributed to the increased demand for hotel rooms. The lodging market in Los Angeles is responding this excessive demand with increased supply. The *Los Angeles Daily News* reports that more than 2,000 new hotel rooms across 10 different properties are currently under construction in downtown Los Angeles and set for completion by the end of 2014. Across the Los Angeles area, an additional 25 hotels are in the planning stages, which will add nearly 5,000 additional rooms to the hotel market by 2017.

**Table 1: Hotel Industry Indicators – County of Los Angeles**

Year	Hotel Rooms	Rooms Sold	Average Daily Rate	Occupancy Rate
2008	97,555	26,499,887	\$154	74.4%
2009	96,380	23,827,480	\$137	67.7%
2010	95,354	24,894,983	\$139	71.5%
2011	99,220	27,176,853	\$147	75.0%
2012	98,404	27,408,285	\$156	76.3%
2013	98,468	27,907,428	\$163	77.6%

Source: PKF Consulting

At the same time, the US Census Bureau finds that an increasing number of housing units in Los Angeles County are designated for “seasonal, recreational, or occasional use” (referred to as “vacation rentals” in the table below). While still a small proportion of the overall housing market, more than 23,000 housing units in Los Angeles County were reported as vacation rentals in 2012. Even so, the housing market in the Los Angeles area is robust, with an overall occupancy rate greater than either the state or nation as a whole.

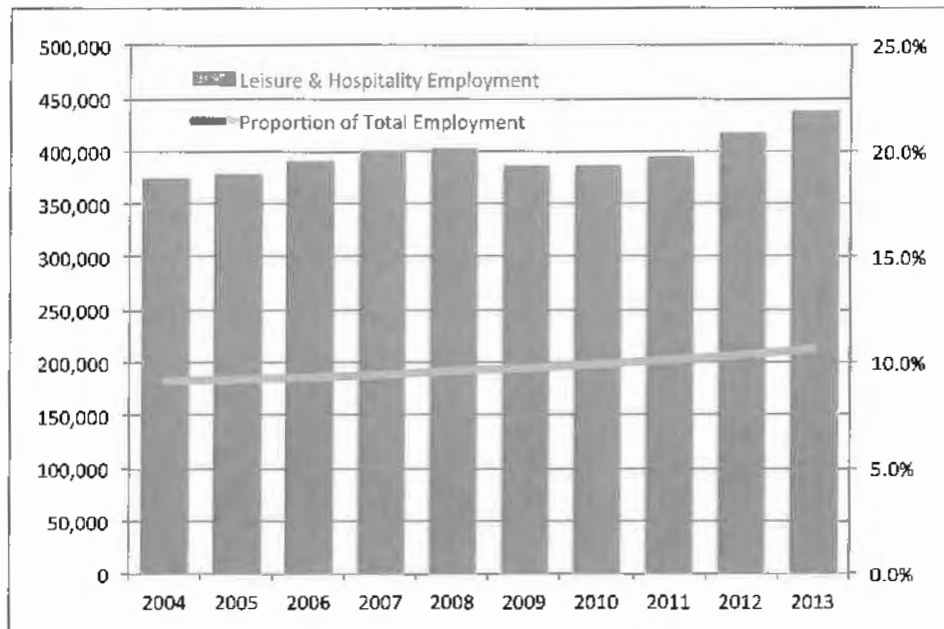
**Table 2: Housing Industry Indicators**

2000	Area Occupancy Rate	Vacation Rentals (VR)	VR as % of Vacant	VR as % of Total Housing
LA County	95.8%	13,565	9.9%	0.4%
California	94.2%	236,857	33.3%	1.9%
United States	91.0%	3,578,718	34.3%	3.1%
2012	Area Occupancy Rate	Vacation Rentals (VR)	VR as % of Vacant	VR as % of Total Housing
LA County	93.5%	23,369	10.5%	0.7%
California	91.2%	340,045	28.3%	2.5%
United States	87.5%	5,014,560	30.5%	3.8%

Source: US Census Bureau

Tourism supports 1 out of every 10 jobs in the Los Angeles area. More than 436,000 workers were employed in the Leisure and Hospitality industries in 2013. Employment in these sectors is growing rapidly with more than 21,000 tourism-related jobs added to the Los Angeles area economy between 2012 and 2013. Moreover, employment in the Leisure and Hospitality industries has grown by 42.4 percent since 1990, while total employment in Los Angeles County contracted by 1.1 percent over the same period.

**Figure 2: Tourism-Related Employment in Los Angeles**



Source: State of California, Employment Development Department

### Short Term Rentals in Los Angeles

STRs are an essential element of the Los Angeles area lodging market. They contribute to the range of options necessary to meet the diversity of demand from the millions of visitors to Los Angeles each year. More than 15,000 properties are listed across the Los Angeles area on the major web-based vacation rental platforms. Allowing for those not listed on these sites, as well as some duplication, this is a substantial number of STR properties. While calculating the exact size of the vacation rental market is extremely challenging given its diverse and diffuse nature, STRs in Los Angeles County accounted for more than a million room-nights purchased by visitors in 2013. There is a high level of interest among property owners and visitors for participating in the STR market.

The legal status of STRs in the Los Angeles area is very complex. With 88 separate incorporated cities within Los Angeles County, there is no existing consensus in the region on where and how property owners may rent out all or a portion of their properties as STRs. In the City of Los Angeles, for example, STRs are permitted in commercial and higher-density residential zones but prohibited in agricultural, single-family, and lower-density multi-family residential zones. However, the City requires that all STR properties register and pay the applicable Transient Occupancy Tax, even in prohibited zones. The disparity in how STRs are treated in different municipalities, as well as the conflicting statutes within specific municipalities, creates a level of uncertainty that can contribute to conflict between STR owners, users, and neighbors.

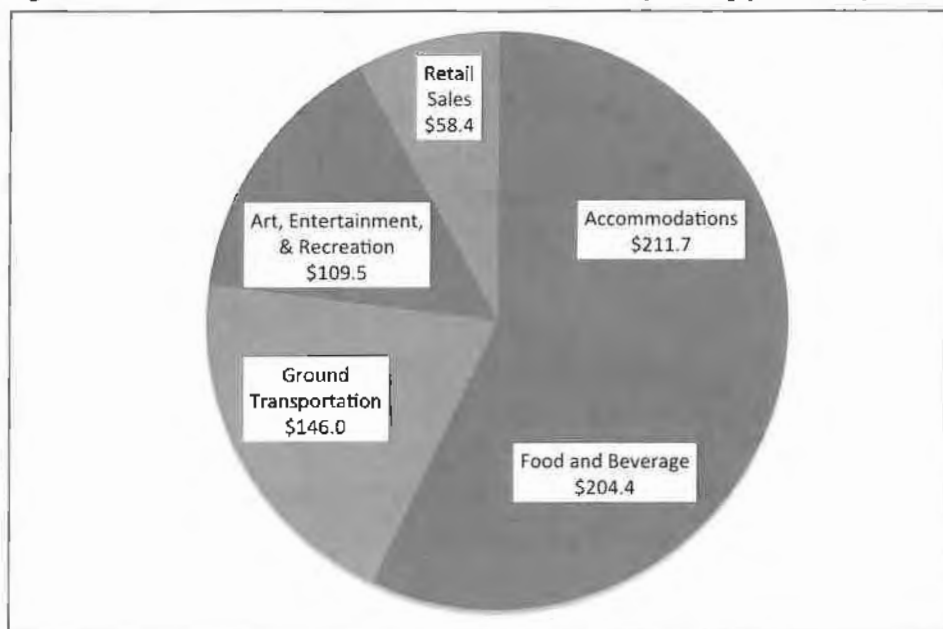
## Economic Impact Calculations

The economic impact of STRs in Los Angeles in 2013 was calculated by first estimating the direct accommodations spending by visitors using STRs. Next, this figure was used as the basis of calculating total STR direct spending. Using these figures, specific multipliers provided by the US Bureau of Economic Analysis RIMS II industry model for the Los Angeles-Long Beach-Anaheim MSA were used to estimate the ripple effects of the induced and indirect impacts; the combination of these ripple effects and the direct spending forms the total economic impact.

### Direct STR-Related Spending Estimates

Using a combination of data provided by STR property owners/managers and web-based vacation rental marketplaces it was possible to estimate the aggregate direct spending on lodging by short term rental users as \$211.7 million in 2013. As a part of the study, survey data was collected from property owners and managers for nearly 300 local properties. *HomeAway* provided data for an additional 2,500 properties throughout the Los Angeles area. The estimated total lodging value was validated using local stakeholder information and publicly available datasets including the California Travel and Tourism Commission's travel impact figures, produced by Dean Runyan.

**Figure 3: 2013 Total Direct Short Term Rental Visitor Spending (\$millions)**



Source: Micronomics, Inc; TXP, Inc

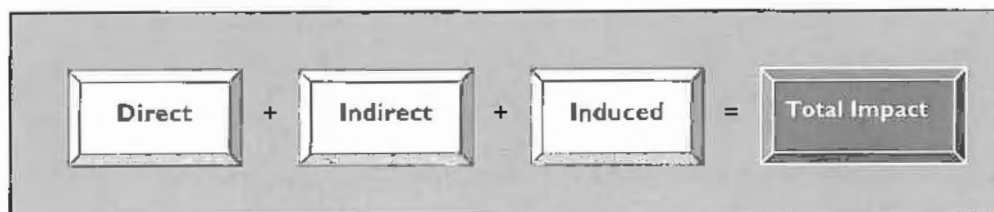
The proportion of total local tourism spending attributable to lodging, using local tourism impact analysis conducted by Micronomics Inc, was applied to this aggregate direct short term rental spending figure to calculate the amount of total direct spending

by short term renters. This ratio of direct spending in different industry categories (i.e. lodging, food and beverage, recreation, retail, and transportation) was validated using data from the US Bureau of Economic Analysis' Travel and Tourism Satellite Accounts dataset. Not surprisingly, visitors to the Los Angeles area spend proportionally more on transportation during their stay than the national average. For every \$100 a traveler spent on lodging, they spent an additional \$97 on food, \$69 on local transportation, \$52 on recreation activities, and \$28 on retail shopping in the local economy. As a result, the total direct spending by STR visitors in the Los Angeles area for 2013 is estimated at \$730.0 million.

### Economic Impact Methodology

The economic impacts extend beyond the direct activity outlined above. In an input-output analysis of new economic activity, it is useful to distinguish three types of expenditure effects: direct, indirect, and induced. Direct effects are production changes associated with the immediate effects or final demand changes. The payments made by a visitor to a hotel operator or taxi driver are examples of a direct effect.

**Figure 4: The Flow of Economic Impacts**



Indirect effects are production changes in backward-linked industries caused by the changing input needs of directly affected industries – typically, additional purchases to produce additional output. Satisfying the demand for an overnight stay will require the hotel operator to purchase additional cleaning supplies and services, for example, and the taxi driver will have to replace the gasoline consumed during the trip from the airport. These downstream purchases affect the economic status of other local merchants and workers.

Induced effects are the changes in regional household spending patterns caused by changes in household income generated from the direct and indirect effects. Both the hotel operator and taxi driver experience increased income from the visitor's stay, for example, as do the cleaning supplies outlet and the gas station proprietor. Induced effects capture the way in which this increased income is spent in the local economy. Once the ripple effects have been calculated, the results can be expressed in a number of ways. Four of the most common are "Activity," which is equivalent to sales; "Value-Added," which is sales minus the cost of goods sold; "Earnings," which represents the



compensation to employees and proprietors; and “Employment,” which refers to permanent, full-time jobs that have been created in the local economy.

The interdependence between different sectors of the economy is reflected in the concept of a “multiplier.” An output multiplier, for example, divides the total (direct, indirect and induced) effects of an initial spending injection by the value of that injection – i.e., the direct effect. Larger multipliers mean greater interdependence among different sectors of the economy. An output multiplier of 1.4, for example, means that for every \$1,000 injected into the economy, another \$400 in activity is produced in all sectors.

### Economic Impact Results

The estimated \$730.0 million total direct spending by visitors to Los Angeles staying in STR properties in 2013 created a total economic activity of \$1.4 billion, value-added of \$761.2 million, earnings of \$390.7 million, and 12,314 jobs in the Los Angeles area economy. The majority of this activity is concentrated in the sectors with the highest direct tourism spending, such as Food Services and Arts, Entertainment, and Recreation. Even so, the spending patterns of STR users, and particularly the indirect and induced effects of their lodging spending, are different than those visitors staying in traditional hotel/motel accommodations. To capture this difference, the total impact of lodging spending by STR users was calculated through the Households sector of the economy, rather than the Accommodations sector. While the total impacts are estimated at the Los Angeles-Long Beach-Anaheim MSA level, the majority of these impacts will be centralized in Los Angeles County, where the evaluated STRs are located. The following table details the total industry-level impact of STRs in the Los Angeles area. Further benefits accrue to both local jurisdictions and the State of California from taxes assessed on direct spending by visitors, as well as realizing revenue associated with the ripple effects of that spending.

**Table 3: Economic Impact of Short Term Rentals In Los Angeles**

Industry	Activity	Value-Added	Earnings	Jobs
Ag., forestry, fishing, & hunting	\$948,970	\$332,140	\$205,853	6
Mining	\$5,678,446	\$2,856,377	\$1,081,087	16
Utilities	\$28,625,324	\$16,950,794	\$4,871,866	45
Construction	\$6,390,947	\$3,184,888	\$2,157,081	42
Manufacturing	\$127,901,717	\$37,997,376	\$21,102,826	398
Wholesale trade	\$48,990,084	\$32,677,320	\$14,533,797	225
Retail trade	\$63,128,356	\$60,384,976	\$30,038,096	1,072
Transportation & warehousing	\$179,890,625	\$64,081,621	\$54,084,664	1,587
Information	\$55,823,541	\$30,625,458	\$12,276,032	171
Finance & insurance	\$100,613,338	\$59,203,257	\$27,971,227	490
Real estate and rental & leasing	\$140,357,835	\$103,773,562	\$11,746,062	708
Prof., scientific, & tech. services	\$61,453,009	\$41,038,505	\$27,126,628	400
Management of companies	\$27,055,144	\$16,314,976	\$9,829,864	108
Admin. & waste services	\$33,527,812	\$22,192,744	\$14,187,093	510
Educational services	\$9,386,768	\$5,383,578	\$3,620,684	111
Health care & social assistance	\$66,665,092	\$40,867,726	\$30,210,802	623
Arts, entertainment, & recreation	\$122,235,832	\$76,896,445	\$40,734,577	1,848
Accommodation	\$9,164,126	\$5,839,811	\$2,635,215	82
Food services & drinking places	\$261,482,921	\$120,808,562	\$72,114,894	3,632
Other services	\$38,969,782	\$19,772,135	\$10,220,396	240
<b>Total</b>	<b>\$1,388,289,668</b>	<b>\$761,182,248</b>	<b>\$390,748,744</b>	<b>12,314</b>

Source: TXP

## Conclusions

Short term rentals and STR guest spending are an important part of the tourism sector in Los Angeles, ultimately creating thousands of jobs and millions of dollars of economic activity, wages, and tax revenue for the community each year. This appears to be largely net new spending as increases in vacation rental activity have coincided with growth in both hotel room revenue and the overall tourism sector in the Los Angeles area. Historically high hotel occupancy rates indicate short term rentals are complementary, rather than substitute, goods in the local accommodations market. Different types of lodging serve discrete segments of the visitor market and diversity within the accommodations market is essential to meeting customer demand. This is particularly true for major destinations that compete for travellers on a global scale. As such, STRs are an essential element of the Los Angeles area lodging portfolio.



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## **Attachment D**

### **Short-Term Rentals**

#### **Memo from Department of City Planning**



## EXECUTIVE OFFICE

City Hall • 200 N. Spring Street, Room 525 • Los Angeles, CA 90012



March 19, 2014

To: Council Offices  
Other Interested Parties

From: Alan Bell, AICP *AB*  
Deputy Director of Planning

Subject: **Short-Term Rentals**

This memorandum answers frequently asked questions about how the zoning laws in effect today regulate short-term rentals in the City of Los Angeles.

### 1. What is a short-term rental?

In Los Angeles, short-term rentals include all or any portion of residential buildings that are designed or used for occupancy for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. While this definition typically applies to hotels or motels, it also applies to any other residential buildings (including one-family dwellings) that are designed or used for occupancy of 30 or fewer days.

### 2. Where are short-term rentals allowed?

Short-term rentals may be allowed in commercial zones; the RAS4 residential accessory services zone; and the R4 and R5 higher-density multi-family residential zones. The rules governing short-term rentals in these zones are complex. In some cases, short-term rentals are allowed with a Conditional Use Permit. In other cases, no Conditional Use Permit is required. Areas governed by specific plans, overlay zones or other specially zoned areas may have different rules.

### 3. Where are short-term rentals prohibited?

Short-term rentals are prohibited in agricultural zones; the R1 and other single-family residential zones; the R2, RD and R3 lower-density multi-family residential zones; and the RAS3 residential accessory services zone. Areas governed by specific plans, overlay zones or other specially zoned areas may have different rules.